

New York State Council of Landscape Architects

New York Chapter and New York Upstate Chapter-American Society of Landscape Architects
235 Lark Street Albany, NY 12210 (518) 465-5176

WINTER MEETING

Date: Feb. 26, 2005

Location: NYSCLA Offices-235 Lark Street, Albany

Present: K. Mathews- (President)
E. Olinger-Officer (Treasurer)
N. Bateman- Upstate (Secretary)
D. Annese- Downstate
D. Brackett- Upstate
R. Gibney-Downstate
D. Kenyon, Upstate ASLA VP of External Affairs (guest)
D. McCord-Upstate
S. Paetzel-Downstate
N. Pouder-Downstate
B. Rodriguez- (NYSCLA Executive Director)

Absent: D. Annese- Downstate
D. Conklin- Upstate
B. Restaino- Downstate
D. Young-Upstate

General Business:

Previous Meeting Minutes- the Sept. 25, 2004 meeting minutes were submitted previously by Secretary N. Bateman; an email ballot will be sent for member approval since a quorum was not possible at today's meeting.

Treasurer's Report-submitted in writing and presented by E. Olinger; The 2005 budget previously submitted was approved by email ballot by the Board. The Chapters have been billed earlier in February and NYSCLA finances are in excellent standing for 2005.

Legislative Session Report- presented by B. Rodriguez as follows:

Administration:

Contract for Management Services- increased \$200 to \$5000 for 2005. K. Mathews will review/concur for the Board.

Landscape Architecture and the Law- is currently on the NYSCLA website; this publication is sent every other year to the NY State Building Officials, Planning officials, and Association of Towns throughout the state; the next mailing will be in April 2005.

Government Affairs:

Joint Design Professions Meeting: representatives from Landscape Architects, Architects, and Engineers met in Albany last November and the joint program will remain unchanged. Surveyor representatives were not present. The Corporate Practice bill was discussed and consensus was reached as to how best to deal with conflicts in the future after last year's proposed exclusion of Landscape Architects in the bill (which was not progressed). Following the meeting, NYSCLA, with AIANYS input, worked out a draft set of guidelines for their on-going contractual relationship with AIANYS. This will be followed up by a draft to be circulated for comment in one to two months. Each group will then coordinate a follow up meeting or phone conference to finalize guidelines to adopt. Overall, this particular Joint Design Professions meeting was very positive and there appears to be strong interest to reconvene on a regular basis.

Lobby Day, Tuesday, April 19, 2005: AIANYS has set the date and NYSCLA will work now on finalizing their agenda. B. Rodriguez distributed a list of all proposed bills and requested NYSCLA members review and let her know which ones will comprise our agenda by **mid to late March**. This year's Lobby Day will have a change of venue, meeting in Room C, not the Assembly Room as in the past. As always, everyone is invited to participate and anyone interested should contact any NYSCLA Board member.

Proposed NYSCLA 2005 Legislative Program: As all sessions are two-year sessions, 2005 will be the first year of the current session. Since none of the legislation we are tracking was enacted into law last session, the 2004 agenda will be rolled into **the 2005 legislative program as listed below:**

Mandatory Continuing Education (MCEs)- in the last session, this passed the Assembly but not the Senate but did reach the Senate floor. This will be introduced again and is considered NYSCLA's top priority this year. The question and debate will continue as to defining competency. NYSCLA is to be commended for its efforts to get the bill as far as it did last year and will continue work towards passage of this important piece of legislation for Landscape Architects.

Design Liability Reform- No action last year but this needs to continue to be in front of the legislature next session. There are 3 bills related to this: the **10-year Statute of Repose for Third Party Suits** (S. 1533, Mr. Volker/A. 269, Mr. Canestrari), **Civil Justice Reform Act of 2005**, and **Certificate of Merit**. NYSCLA supports the initiatives of the New Yorkers for Civil Justice Reform for comprehensive tort reform, which will restore fairness, balance and common sense to our civil justice system and which includes the following Design Professionals Liability Reform issues: the 10-year Statute of Repose for third party suits brought against design professionals and a Certificate of Merit provision before commencing suit. These legislative bills would extend to design professionals protection from perpetual liability exposure to third party suits in the case of a statute of repose and in the case of a certificate of merit process, protection from non-meritorious litigation in a manner similar to that currently provided for health professionals.

Qualifications-Based Selection (S. 1894, Mr. Robach)- We believe that Landscape Architects and other design professionals should be selected on the basis of professional qualifications and competence. The present State Finance Law, Section 136-a, provides for open competition among design professional firms in the areas of competence, experience, prior performance, and technical qualifications, followed by negotiated compensation. This bill would extend these QBS procedures to public authorities and public benefit corporations. Government is responsible to the taxpayers for obtaining the best planning, design and development possible that addresses health and safety considerations as well as maintenance and operating costs for the life cycle of the project.

Good Samaritan Act- We support the legislation which provides liability protection for Landscape Architects, Architects, Engineers, and Land Surveyors, to protect the public's health, safety and welfare in emergency situations. The current bill as written excludes Landscape Architects and Land Surveyors. On behalf of all Landscape Architects, we respectfully request that the legislation be amended to include Landscape Architects. We are also joined in this request by Architects and Engineers **"Crumbling Schools" Initiatives-** We support state and federal funding initiatives and appropriations for the repair, maintenance, and new construction needed to rehabilitate and modernize our schools and school grounds so that our students will be prepared to meet the challenges of the 21st century. The budget appropriations add much needed safeguards, which will ensure structural, environmental, and life-safety compliance, will remedy the life-cycles of our school facilities, and will bring them into compliance with applicable building and safety codes as well as with the Americans with Disabilities Act (ADA).

Wicks Reform- We have long favored repeal of Wicks as this law is costly to New York state. Time and again, studies have shown that repealing Wicks will save dollars and time on public works projects in New York. However, absent repeal, we would support compromise legislation which would move us toward that goal, including legislation which would provide state and local public owners with a choice-single prime or multiple prime contracts on public works projects as in the Goodman/Sanders bill. We would also support a compromise, which would raise the Wicks threshold for all levels of state and local governments, including state construction agencies, public authorities, and public benefit corporations as in the Volker/Schimminger bill, and legislation, which would exempt school districts and BOCES from Wicks requirements.

Smart Growth-Liveable Communities-Sustainable Development, Affordable Housing Tax Credits, Historic Housing Preservation Tax Credits- We support each of these initiatives to revamp local, state, and federal community planning and zoning practices and principles to revitalize development. These initiatives also encourage the regeneration of the physical fabric and infrastructure of our urban, suburban, and rural communities and enhance and improve the quality of life of all residents throughout New York.

Design/Build (A. 270, Mr. Canestrani)- We support amending Article 147 of Title VIII of the State Education Law, which licenses and regulates the

professions doing design/build. Design/Build is a form of project delivery where owners contract with a single entity, the design/builder, to provide both design and construction services. Most commonly, the design is provided by an independent designer (i.e. Landscape Architect, Architect) who is retained by the design/builder as a subcontractor. However, some design/build firms provide the design through officers or employees of the design/builder who are licensed professionals but because of their independent status, may not be able to freely exercise their professional judgment in the interest and protection of the owner or the public. The proposed legislation would prohibit this type of arrangement and require that the licensed design professional be independent of the contractor who is acting as the design/builder.

Corporate Practice of Design Professions (S. 1477, Mr. La Valle/ A. 2755 Mr. Canestrari)- This will be re-introduced to include Landscape Architects. We support legislation to allow a business corporate practice of design professions, which would limit ownership to under 25% control of design professional firm by individuals not licensed under Title VIII of the State Education Law, and more than 75% ownership and control by licensed, registered design professionals. This legislation would continue to require that all professional design work be carried out under the responsible design professional. Many states allow design professionals to form regular or business corporations. However, New York remains one of only 3 states that do not permit some form of **business** corporate practice (with the exception of its grandfather corporations).

B. Rodriguez also handed out a list of bills, which she is tracking and requested our input on NYSCLA's official position and if some of these should be attached to our agenda for Lobby Day. She will also follow up on the lighting bill and the creosote legislation. N. Pouder noted that many bills on the list distributed today have direct application to Landscape Architecture work, so everyone agreed to review this closely by mid March. R. Gibney volunteered to collect feedback on these bills from Board members and to forward to B. Rodriguez our final comments.

D. McCord noted that he is currently working on an article for the Upstate ASLA Chapter newsletter on the 4 or 5 most pressing legislative issues for Landscape Architects: MCE, Wicks reform, Corporate Practice, etc. Perhaps other topics/issues should also be added. Discussion continued with the recommendation that Downstate Chapter contacts and National ASLA contacts also receive this article as well.

Old Business:

Corporate Practice Law- K. Mathews reported that she and D. Brackett attended the Nov. 18, 2004 Joint Design Professions meeting and presented NYSCLA's Corporate Practice Position paper which was well received. Also distributed was D. Annese's historic archive paper.

Mandatory Continuing Education (MCE)- K. Mathews reported that she and E. Olinger met with the State Education Department in mid December. E.

Olinger distributed a revised draft of the NYSCLA draft law, which he, D. McCord, and N. Pouder have been working on. Board members were asked to review this latest draft compared with the draft presented last year and distributed by B. Rodriguez. We will then submit this year. Discussion ensued, and focused on proposing 36 hours of continuing education every three years, of which 24 must relate directly to health, safety and welfare along with up to 12 additional hours comprised of non course activities (online courses, correspondence courses, etc.). D. Brackett offered to get the State Board of Landscape Architects input on this and to get back to K. Mathews. E. Olinger, D. McCord, and N. Pouder will follow up to keep the revised draft moving towards final submittal for this year's session. It was agreed to continue to meet with Sen. La Valle downstate since he has sponsored MCE and Corporate Practice and R. Gibney agreed to do this. R. Gibney also noted that the Design Professionals of Long Island has been a successful, active venture for all four design professions on Long Island for several years.

NYSCLA Web Site Report- presented by N. Pouder who has been doing periodic audits on the database. It was noted that a few did not renew their license or keep their information updated. K. Mathews said to do an annual check and send her (or the current President) the list of those listed as not currently licensed. A formal letter from NYSCLA should then follow.

AIA Contract Amendment Under review- K. Mathews and B. Rodriguez have coordinated an amendment to address conflicts of interest. K. Mathews will sign when B. Rodriguez submits this to us.

New Business:

Qualifications Based Selection (QBS) Council meeting- The next meeting is set for March 16, 2005 at 10 a.m. at the ACEC office in Albany. N. Bateman said she will check with D. Conklin to see if one or both could attend for NYSCLA.

NYSCLA President Candidates (Fall 2005-2007 term)- K. Mathews offered to chair the By Law Committee and the Nominating Committee. D. Brackett also offered to serve on the Nominating Committee. The person serving as President must be registered and either a Fellow or Member of ASLA.

NYSCLA Board Members: Another Board member is needed; members should notify K. Mathews regarding potential nominees for President as well as the vacant Upstate Board member position. D. Annese has notified the Board he will likely be stepping down soon so another Downstate Board member position will also need to be nominated.

Annual Report: At the request of the Upstate Chapter, NYSCLA will prepare an annual report of activities for 2004. K. Mathews will prepare and send to both chapters.

ASLA 2005 Licensure Summit- K. Mathews will represent NYSCLA/NY again; this year's will be held in Denver in June.

Cataloguing of Landscape Architecture archives/records- D. McCord is working on this with SUNY-ESF.

D. Annese Professional and Honorary recognition- The Board began exploring ways to recognize one of NYSCLA's most dedicated members over the years who has also made significant contributions to the profession of Landscape Architecture in New York throughout his career.

Key Calendar dates:

month of April	National Landscape Architecture month
Spring NYSCLA meeting:	April 9, 2005 in Albany
Lobby Day:	April 19, 2005 in Albany (contact any NYSCLA member to attend)
ASLA Licensure Summit:	June, 2005, Denver, Co.
Summer NYSCLA meeting:	To be determined
Fall NYSCLA meeting:	To be determined
ASLA National Conference:	Oct. 7-11, 2005, Ft. Lauderdale, Fl.

There being no further business, the Meeting was adjourned; the next meeting (Spring) is set for Saturday, April 9, 2005 at 10:30 a.m.