

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

FALL MEETING

Date: Sept 25, 2004

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
D. Conklin- Upstate
D. McCord-Upstate
S. Paetzel-Downstate
N. Pouder-Downstate
B. Restaino- Downstate
B. Rodriguez- (NYSCLA Executive Director)

Absent: R. Gibney-Downstate
D. Young-Upstate

General Business:

Previous Meeting Minutes- the July 10, 2004 meeting minutes were submitted previously by Secretary N. Bateman; accepted by the Board.

Treasurer's Report-submitted in writing and presented by E. Olinger;
The third quarter 2004 budget was accepted by the Board; E. Olinger reported that budget is on target for the remainder of 2004; \$700 approved for the Upstate Chapter's Archive project in concert with a grant funding from ASLA.

Legislative Session Report- presented by B. Rodriguez; approved by the Board as follows:

QBS (Qualifications Based Selection for A/Es), which passed both, houses this past session; it is anticipated the Governor will sign this into law very soon. On behalf of NYSCLA, B. Rodriguez sent the Governor a letter requesting his support. B. Rodriguez forwarded NYSCLA members and encouraged us to write the Governor (as AIA members are doing) supporting this amended version of the current law that now requires QBS by state agencies only (Office of General Services and Department of Transportation). The new law would extend QBS requirements as per Section 136-1 of the State Finance Law for selection of design professionals to include public authorities and public benefit corporations (i.e. Dormitory Authority and State University Construction Fund).

B. Rodriguez attended the **Upstate Architects and Engineers Legislative Luncheon** in Rochester this past week, which may become an annual event. AIA Rochester hopes to include Landscape Architects for next year's meeting. In addition, the meeting of the **Joint Design Professions** is set for Nov. 18, 2005 in Albany and will offer a good opportunity for all four design professions to convene once again and clarify issues of significance for each profession. B. Rodriguez also prefers the Joint Design Professions to put out their agenda prior to Lobby Day (preferably in January) so a more concerted effort can be obtained with legislative movement.

B. Rodriguez also announced that AIANYS is considering a temporary move to another office location and that AIANYS's recently adopted budget includes a \$200 increase for NYSCLA's contract next year.

B. Rodriguez closed noting that the remaining NYSCLA legislative issues as listed below will be the same for next year:

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 in a special session or in January, 2005. 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 this year and will continue work towards passage of this important piece of legislation for Landscape Architects.

Design Liability Reform- No action this year but this needs to continue to be in front of the legislature next session.

Good Samaritan Act- This was pushed at Lobby Day this year and was successful for adding Landscape Architects and Land Surveyors to the bill. Our interest in this is a result of 9/11 and the fact that the design professions have no Statute of Repose. This is controversial since it is perceived as part of tort reform and is strongly opposed by the trial lawyers.

Crumbling Schools- Wait and see for now; the Coalition of Fiscal Equity has taken NYS to court where the court has determined that the Governor and legislature must act on school funding or the courts will prevail.

Reform of Public Bidding Laws for Construction Services, including Wicks Repeal- This could still be a budget issue next session, and NYSCLA will continue to lobby for Wicks reform. On June 30, Governor Pataki approved legislation

extending the NYC School Construction Authority including its Wicks exemption. Wicks reform has garnered much visibility and attention. Part of this is due to misconceptions on issues such as Contractors and Sub relationships, prevailing wages, and prompt payment, which are not negatively impacted by Wicks.

Smart Growth, Livable Communities, Housing Tax Credits- Sen. LaValle introduced this at the end of this session. The Governor in previous years' Executive Budgets has been supportive of this tax credit and as the economy improves, this favors passage for next year. The Senate has a tax bill that includes an historic home tax credit which AIANYs and the Preservation League of NYS is supporting.

Design/Build- No action this year, but we worked with Senator Balboni and the Professional Engineers to clarify some concerns the PEs had. This bill says that if contractor led design/build occurs, the law must be amended for all four design professions to say the design professional may not be in the employ of the contractor and the designer must be named in the contract.

Corporate Practice of the Design Professions- This has been problematic as the State Education Department's Office of Professions opposes corporate practice for licensed professionals based on the recent scandals like Arthur Anderson, Enron, and the HMO situation where medicine and pharmacy are being eroded by business corporations. There are many design firms in NYS comprised of two or more of the four design professions, so ownership issues contained in the bill pose significant concerns. A new development occurred in June when Senate Program Counsel David Reid discussed with Architects and Engineers the removal of Landscape Architects and Land Surveyors from the legislation. The rationale presented for this was related to grandfathering, because when Landscape Architects and Land Surveyors became licensed, neither had corporate business grandfather clauses, as did Architects and Engineers. It is our understanding that Mr. Reid's reasoning was that the legislation would presumably treat all Architects and Engineers equally and fairly by extending corporate practice to those A/E firms not grandfathered. NYSCLA submitted its objections in writing on this issue. In the end, none of Reid's changes were passed this session. Therefore, law as it stands is still inclusive of Landscape Architects, however, due to this surprise incident last June, NYSCLA intends to develop a proactive strategy to avoid a reoccurrence in the future. B. Rodriguez suggested NYSCLA bring this up at the Nov. 18, 2005 meeting of the Joint Design Professions, which NYSCLA intends to do. As suggested by K. Mathews, it was agreed that NYSCLA will draft a Corporate Practice position paper. R. Gibney and S. Paetzel will do this and distribute for comment to all NYSCLA members soon, with the final paper ready for distribution by the Nov. 18 Joint Design Professions meeting. Representing NYSCLA at the Nov. 18 meeting will be K. Mathews, D. Brackett, and D. Conklin. [See additional comments on this issue under Old Business.]

Funding to Enforce Illegal Practice Law- This remained gridlocked; we may want to go back to the Legislature at some point to move this forward. NYSCLA supports a \$10.00 fee increase for the Office of Professions to enforce the new illegal practice law enacted last year, provided the fee increase be dedicated in iron-clad fashion to direct enforcement of the new illegal practice law as applied to those engaging in unauthorized practice of a licensed profession under Title VIII of the State Education Law. This will most likely be a part of the budget if it happens.

Other legislative issues follow which B. Rodriguez will continue to monitor and forward with as new information becomes available:

Creosote as a Wood Preservative- passed the Assembly and Senate and is being sent to the Governor. ASLA has issued a statement on this and until NYSCLA receives and reviews more info, we will hold on action. **Illegal Cutting,**

Removing, Injuring or Destroying Trees- this legislation was signed into law, Chapter 90, Laws of 2004. **Multiple Message Signs on Interstate and Primary Highway Systems-** This legislation was signed into law, Chapter 37, Laws of 2004. It ratifies and confirms certain actions taken by the Federal Highway Administration authorizing the erection and maintenance of changeable signs near these highway systems.

Dark Skies- No movement this past session and no public policy developed on this complex issue yet. However, this was discussed as being one of the more important issues this coming year; S. Paetzel will begin a bullet list of items on this issue as a beginning for a NYSCLA Position Paper.

Old Business:

- **AIA Contract Amendment for Future Conflict Issues-** K. Mathews handed out a draft Amendment to NYSCLA's contract with AIANYs for Board members to comment on by Oct. 1. This was designed to both address and hopefully avoid conflict of interest problems such as the one that recently occurred this past June with AIANYs and NYSCLA as a result of the sudden exclusion of Landscape Architects in the language of the proposed amendment to the Corporate Practice Law. In this case, AIANYs took a position contrary to that of NYSCLA.

Corporate Practice Law action- As confirmed with B. Rodriguez, as it stands the law has not changed and Landscape Architects are still included. However, K. Mathews reiterated the need to be proactive and our Position Paper will be ready for distribution at the Joint Design Professions meeting Nov. 18. N. Pouder noted that we should continue to think long term and have a contingency plan organized and a framework to hire a lobbyist if need arises. It would make sense to have our strategy for this coming legislative session defined by early/mid January as noted by K. Mathews. All agreed. D. Annese submitted a letter on June 19, 2004 to the Board and Officers noting the creation and purpose of the Ad Hoc Committee of the Design Professions in 1972. He read excerpts from the 1972 Statement of Ethical Guidance which the Committee prepared and which represented a unified statement all four design professions reinforcing the premise that all four professions must hold equal footing. Actions to be taken on this issue as per K. Mathews will be 1) K. Mathews, S. Paetzel, and R. Gibney will meet with Sen. LaValle's staff prior to the Nov. 18 Joint Design Professions meeting 2) NYSCLA

will have good representation at the Nov. 18 meeting and a final Position Paper, and 3) K. Mathews may touch base with Architects, Engineers and Land Surveyors if possible prior to the meeting.

MCE- D. McCord drafted and distributed for comment a list of potential CE providers at the last meeting that are acceptable. K. Mathews noted we still need the regulations drafted first, before finalizing providers. A meeting with the State Board and State Education Department scheduled for Sept. 24, 2005 was cancelled and will be rescheduled as noted by E. Olinger. E. Olinger and D. McCord plan to meet with Jim Tinney of the State Board soon as does D. Brackett. A meeting with the new Secretary of the Board of Landscape Architects is also being planned. B. Restaino reported that she had a good meeting with Cornell who fully support MCEs for Landscape Architects. At the meeting were Kathy Gleason, Chair of the Dept. of LA, Christine Holmes, Associate Dean of Continuing Education, Peter Trowbridge, Dan Kraul, and Marv Adleman. Cornell also expressed interest in offering specific courses so as to avoid duplication of offerings at other locations. Letters of support have been received from City College of New York and D. Annese and E. Olinger will follow up on the status of the letter from SUNY-ESF. K. Mathews also handed out a letter Peter Rothschild has written to CLARB recently citing his concerns with CEs.

Website Editor- To fill D. Young's old position, N. Pouder volunteered and will serve in this capacity. All approved. The mail ballot results after the July 10, 2005 meeting showed majority approval in favor of D. Young's transition from his previous role as Website Editor to his new role as Website contractor with his new firm, dGraphx.

Corporate Practice Position Paper- Will be coordinated by R. Gibney and S. Paetzel, with drafts sent to all NYSCLA Board members for comment; final paper will be ready for the Nov. 18 Joint Design Professions meeting.

Invasive Species Committee- K. Mathews will follow up on this.

Archives Funding- E. Olinger and D. Annese will coordinate this.

New Business:

Joint Design Professions meeting- set for Nov. 18 in Albany; K. Mathews and D. Brackett will attend for NYSCLA. D. Conklin is available as an alternate.

Other Business:

- **LARE administration-** N. Bateman expressed concern regarding problems incurred during this year's administration of the LARE exams at all New York locations. Castle Worldwide Testing Services, the testing service responsible for administering Sec. C and E, was notified regarding these problems: changing a testing location to an inconvenient site two days prior to one exam, having no access (building locked) at the start time, no rooms or desks prepared ahead of time, and making candidates move to an another room after the exam had begun. S. Paetzel also noted numerous problems with the new C/LARE, or computer administered LARE (Section A, B, and D), given in August for the first time, which is administered by a different testing service, LaserGrade. The Board agreed to take this information into further consideration as to the best avenues to pursue, so that a proper testing environment conducive for the LARE can be assured. State Ed currently administers Castle Worldwide's contract and to date, NY is the only state where Castle administers the LARE. LaserGrade administers all C/LARE sections in every state. In addition to Castle Worldwide and LaserGrade, CLARB has also received numerous complaints about this year's exam across the country.

Fundraising- K. Mathews noted this might be wise to pursue, given our possible need for a lobbyist; strategy to be discussed and options considered; S. Paetzel may have possible ideas; all agreed this should be an important priority.

New Upstate Board Member- E. Olinger is working on this with the Chapter.

Dave Fasser's Recognition for Service to NYSCLA- K. Mathews will work on this.

Key Calendar for dates for 2004:

Oct. 29-Nov. 2: ASLA Annual Conference, Salt Lake City, Utah;
Contact any ASLA member

Nov. 12: Upstate NYASLA Chapter 50th Anniversary Banquet,
Syracuse, 7-10 pm; contact any Upstate ASLA member

Nov. 18: Joint Design Professions meeting, Albany; contact any
NYSCLA member

There being no further business, the Meeting was adjourned; the next meeting (Winter) is set for Saturday, January 22, 2005 at 10:30 a.m.

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