

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

SUMMER MEETING

Date: July 10, 2004

Location: NYSCLA Offices-235 Lark Street, Albany

Present: K. Mathews- (President)
E. Olinger-Officer (Treasurer)
N. Bateman- Upstate (Secretary)
D. Conklin- Upstate
R. Gibney-Downstate
D. McCord-Upstate
S. Paetzel-Downstate
N. Pouder-Downstate
B. Restaino- Downstate
B. Rodriguez- (NYSCLA Executive Director)
D. Young-Upstate

Absent: D. Annese- Downstate
D. Brackett- Upstate

General Business:

New Member Welcome- K. Mathews welcomed new board members Richard Gibney and Stacey Paetzel who will represent Downstate.

Previous Meeting Minutes- the March 20, 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 second quarter 2004 budget was accepted by the Board.

Legislative Session Report- submitted in writing by B. Rodriguez; approved by the Board as follows:

QBS (Qualifications Based Selection for A/Es) passed both houses with the Governor likely to sign soon. On behalf of NYSCLA, B. Rodriguez is sending the Governor a letter requesting his support. She requested NYSCLA members write the Governor (as AIA members are doing) supporting the amended version of the current law which 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).

Mandatory Continuing Education (MCEs)- passed the Assembly but not the Senate but did reach the Senate floor. This could be introduced again in a special session or in January, 2005. After favorable reports out of Senate Higher Education, it was held up in Senate Rules by Senate Program Director David Reid, who believes the current continuing education system for licensed professionals should be changed to a system of continuing competency. The question and debate will continue as to defining competency. All continuing education bills at that point were stopped. 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 this 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 as its misconceptions on issues such as Contractors and Sub relationships, prevailing wages, and prompt payment are not negatively impacted by Wicks.

Smart Growth, Livable Communities, Housing Tax Credits- Sen. LaValle introduced this at the end of the session. The Governor in previous years' Executive Budgets has been supportive of this tax credit and as the economy improves, this

favors passage for this 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. Barbara Rodriguez understands that, in June, Senate Program Counsel David Reid discussed with Architects and Engineers the removal of Landscape Architects and Land Surveyors from the legislation because when both professions became licensed, neither had corporate business grandfather clauses, as did Architects and Engineers. His reasoning was that the legislation would presumably treat all Architects and Engineers equally and fairly by extending corporate practice to those firms not grandfathered. B. Rodriguez suggested NYSCLA bring this up at the January 2005 meeting of the Joint Design Professions (which needs to be set up this year). 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.

Funding to Enforce Illegal Practice Law- This is still 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, which B. Rodriguez will forward more info on:

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 session and no public policy developed on this complex issue yet.

Old Business:

Lobby Day- Held April 27, 2004, this year's Lobby Day with AIANYs was very successful. NYSCLA met with numerous legislators to inform them of several key issues of concern to Landscape Architects, primarily MCE for Landscape Architects and the inclusion of Landscape Architects and Land Surveyors in the Good Samaritan legislation. In addition to NYSCLA Board members K. Mathews, E. Olinger, D. Conklin, and N. Bateman, we were pleased to have Upstate NYASLA members Pete Auyer and Dave Cutter join us, representing important Chapter leadership participation.

Web Site Report- presented by D. Young; we have gone to a new service provider and the website overall has been greatly improved with faster search ability and searches by zip code are now available. Most of the site's hits are inquiries to the database and efforts are underway to curtail costs while increasing efficiency and productivity in the long term. D. Young notified the Board that he and Jeremy Young have merged to form a new firm, dGraphx, which will maintain our website. For that reason, D. Young will recuse himself from involvement on Board actions related to the website and another website editor will be named. Since a quorum was not possible, a ballot will be sent email to members to approve/disapprove this.

MCE- D. McCord drafted and distributed for comment a list of potential CE providers. K. Mathews suggested we get the regulations drafted first, then finalize providers. K. Mathews will follow up with D. Brackett regarding setting up a meeting with the NYS Board of Landscape Architects, as their support is crucial. B. Restaino will meet with Cornell staff this summer and others will follow up on previous meetings held in recent months to acquire support so we can get their endorsement and letters of support. K. Mathews advised that our next step should be to speak again with legislators (LaValle, Canastroni, Robach, and Morelli especially) and to also talk with David Reid. Competency, and its interpretation, not only impact Corporate Practice but MCE legislation as well. K. Mathews will also call Ron Tettleman. D. McCord will submit an article to the Upstate NYASLA newsletter on his progress with MCE provider research.

New Business:

Corporate Practice Law- NYSCLA was blindsided by a mid June disclosure that Landscape Architects and Land Surveyors would be excluded from this legislation as a last minute attempt to get the bill through by Architects and Engineers. A flurry of phone calls, faxes and emails were undertaken by NYSCLA to object to this. Discussion today focused on how to avoid surprises like this in the future and how best to proceed. A strong relationship with AIANYs has been advantageous to both groups and NYSCLA would like to continue and improve upon that. Consideration of securing a lobbyist and creating a communication strategy that is effective for NYSCLA when a conflict exists with AIA is being explored. K. Mathews will call B. Rodriguez and discuss this in detail. Also suggested was for us to partner with Land Surveyors at this point and to also work towards a more effective agenda at the next Joint Design Professions meeting. N. Bateman and R.

Gibney will begin drafting a NYSCLA position paper in the next two to three weeks, to be distributed eventually for comment to all NYSCLA members. This will be one of NYSCLA's most important priorities now.

Invasive Species Committee- The Board agreed that a Licensed Landscape Architect should be appointed; K. Mathews believes she has a candidate and will follow-up.

Report on ASLA Licensure Summit- K. Mathews participated in a panel discussion and represented New York at this year's June Summit in Boston. The sessions on Lobbying will help us in the future and the event was well represented.

Funding Request for Archives- Upstate NYASLA Chapter's request for matching funds from NYSCLA was approved by K. Mathews for \$700. The funds are subject to approval of the matching grant from ASLA. The money will be used to archive Chapter records including those related to NY State licensure. K. Mathews noted that the Council has been discussing records archiving for ten years and this will be a good start. It will be a goal to take these funds from the operating budget rather than the reserve.

Other Business:

- **Dave Fasser's resignation-** Dave resigned recently and moved to Florida and the Board appreciates greatly his years of service. K. Mathews and the Board approved a motion to have a Certificate of Appreciation made.

Location for future meetings- Suggestions for different meeting locations to facilitate exchange with other groups while traveling to other regions of the state is still a possibility. However, no changes were made.

- **Calendar for 2004-** Key dates are as follows:

Sept. 25: Fall Board meeting (Albany)

Oct. 29-Nov. 2: ASLA Annual Conference, Salt Lake City, Utah

**Nov. 12: Upstate NYASLA Chapter 50th Anniversary Banquet,
Syracuse, 7-10 pm; details to be announced soon.**

There being no further business, the Meeting was adjourned; the next meeting (Fall) is set for Saturday, Sept. 25, 2004, at 10:30 a.m.

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