

**OREGON STATE BOARD OF EXAMINERS
FOR
ENGINEERING AND LAND SURVEYING
DRAFT**

Minutes of Meeting
November 8, 2005

CALL TO ORDER

President Neathamer called the meeting to order at 9:00a.m. in the conference room of the OSBEELS Office, 728 Hawthorne Ave., N.E., Salem, Oregon.

Members Present:

Bob Neathamer
Edward Butts
Grant Davis
Mari Kramer
Susanna Laszlo
Dan Linscheid
Richard Persons
John Seward
Ron Stuntzner
Dave Taylor

Visitors Present:

Gary Anderson, PLS, PLSO Liaison
Tom Gallagher, Legislative Advocates, Inc.

Others Present:

Mari Lopez, OSBEELS Executive Secretary
Jennifer Gilbert, OSBEELS Executive Assistant
Brian Halfman, OSBEELS Compliance Specialist/Investigator
Kathi Dahlin, Sr. Assistant Attorney General

APPROVAL OF AGENDA

It was moved and seconded (Butts/Laszlo) to approve the agenda. The motion passed unanimously.

APPROVAL OF MINUTES

It was moved and seconded (Taylor/Laszlo) to approve the minutes of the meeting of September 13, 2005. The motion passed unanimously.

PUBLIC INPUT

President Neathamer welcomed guest Gary Anderson, PLSO Liaison and Tom Gallagher, Legislative Advocates, Inc. At this time, he also introduced new Board members John Seward, PE and Richard Persons, CPA. Welcome Mr. Seward and Mr. Persons!

EXECUTIVE SECRETARY'S REPORT

Examination/Registration –

Ms. Lopez was pleased to state that the local examinations were held at the Lane County Fairgrounds in Eugene, Oregon on October 28th and 29th. She noted that Board members and staff did not experience any difficulties. She also informed the Board that the numbers of “No Shows” for the locally administered exams were: FE-15, PE-15, Structural II-2, Structural III-1, FLS-2, PLS-0, and Oregon 4hr-0, and the numbers of “No Shows” for the overseas administered exams were: Japan; JPEC/FE-31, Okinawa/PE-0, Okinawa/FE-0, Yokosuka/FE-0, Yokota/PE-0 and South Korea PE-0, Structural II & III-0 and FE-0. Ms. Lopez stated that the next occasion to take place at the OSBEELS office is the December 31st renewal process and that courtesy reminders will be mailed on the 15th of November. This renewal period consists of approximately 3,863 renewals.

ELSESES

Ms. Lopez stated that Tracy Snyder, ELSESES Logistics Coordinator has requested a list of proctors who wish to continue assisting in the administration of the examinations. She notified the members that Ms. Gilbert would be sending out a flyer to all past volunteer proctors informing them of the exam administration transition and ELSESES' request. A draft flyer was distributed and the members were informed to contact Ms. Gilbert if they wanted to be added to this list.

NCEES/JPEC

Ms. Lopez declared that the FE examination held in Tokyo, Japan was a success! Mr. Butts was praised several times for his outstanding participation as the Supervising Proctor. She noted that Betsy Browne, NCEES Executive Director, Jerry Carter, NCEES Associate Executive Director and George Nishimura, NCEES Consultant were impressed by the process, organization and the amount of volunteer proctors at the examination site. Ms. Browne commented that the administration of the JPEC FE examination is greater than how most Member Boards administer the examinations. During a meeting with JPEC and JSPE, Ms. Lopez stated that they viewed a power point presentation of the history of the FE examination in Japan and the strategic activities for the October 2005 FE examination. She also noted that Mr. Uchida inquired whether OSBEELS would forward the October 2005 FE examination results directly to JPEC since the MOU between JPEC and OSBEELS is set to terminate on January 11, 2006 and results are usually released in mid-January. Ms. Lopez and Mr. Butts informed Mr. Uchida that the termination of the MOU would not be an issue in receiving the results.

Another concern Mr. Uchida had was the results for the remaining 67 examinees from the October 2004 examination. Once again, Ms. Lopez stated that Mr. Butts and herself

informed JPEC and JSPE that the results from these individuals will be sent directly to JPEC upon receipt of the individual's transcript evaluations.

Committee Activities –

Ms. Lopez stated that the Examinations and Qualifications Committee, External Communications Committee, Finance Committee, Law Enforcement Committee, Professional Practices, and Rules and Regulations Committee each met during the interim and that the Committee minutes were included in Board packets.

Administrative Activities –

Ms. Lopez informed the Board that the revised applications (the FE/FLS, PE/PLS and the reapplication) will soon be located on the OSBEELS website. Board members were informed to contact the office by November 15th if they noted any revisions that should be made.

SIBA

Ms. Lopez informed the Board that she attended a Semi-independent Board Administrators (SIBA) meeting on October 4, 2005. Due to the open enrollment period for health, life and disability insurance, Isabel Joslin, Agency Liaison, of the Public Employees Benefit Board (PEBB) and Cheryl Zehrfeld of Benefit Help Solutions were also in attendance to summarize the new procedures for submitting paperwork, the mandatory medical enrollment and other new choices available for employees.

She also stated that the administrators reviewed and discussed the Oregon Administrative Rules, Chapter 166, Division 350 Boards and Commission Records. House Bill 2029 was also discussed at great length, since this report is due January 1, 2006. She noted that further discussion would take place at the next scheduled SIBA meeting on November 14th.

Board Vacancies

Ms. Lopez informed the Board that the Governor's office is still in anticipation of applications from engineers who specialize in Photogrammetry. She was informed that the Congressional District is not a restriction in view of the fact that OSBEELS currently has members represented from each of the five districts.

Office Relocation

Ms. Lopez stated that it was apparent that the OSBEELS office is not at a new location. She informed the members that there are some difficulties being experienced with Creekside Corporate Center in regards to the leasing agreement. AAG Dahlin briefly summarized the situation and stated that President Neathamer, Ms. Lopez and herself may need to schedule a meeting with the Leasing Manager and Owner.

PRESIDENT'S REPORT

President Neathamer thanked Mr. Butts and Ms. Lopez for their excellent representation of the Board during the FE exam administration in Tokyo, Japan. He also thanked staff

and Board members Grant Davis, Mari Kramer, Dan Linscheid, John Seward, and Ron Stuntzner for a job well done during the FE exam administration held at the Lane County Fairgrounds in Eugene, Oregon. He reminded Board members to inform Ms. Gilbert if they wished to continue volunteering with the exam process so that ELSESES would be notified of their contact information. He also stated that the Oregon specific examinations would be administered by ELSESES but volunteers are still necessary to write, score and grade these exams.

Mr. Butts requested President Neathamer if he could take this opportunity to compliment Ms. Lopez for her excellent representation of the Board during the FE exam administration in Tokyo, Japan. Mr. Butts also noted that the examinees in Japan were quite disciplined and the administration was very organized.

President Neathamer informed the members that he attended the Oregon Institute of Technology (OIT) Fall Engineering and Geomatics Advisory Committee meeting. He stated that OIT will be evaluated for ABET Accreditation on their surveying program in 2006 and that Board representation will be requested. Unfortunately, due to his relationship with OIT, President Neathamer will be unable to represent the Board and is asking a Land Surveying member of the Board to mark their calendar. The member representing the Board is welcome to be present as a State Board observer.

President Neathamer distributed a revised version of the Committee Assignments. There were no further comments.

FINANCIAL REPORT

Ms. Kramer reported that the Finance Committee met on October 4, 2005 to discuss the following matters. Ms. Kramer reported the following to the Board:

Amount of Board Reserve

Ms. Kramer stated that the Committee discussed the amount held in the Board reserve fund and would like to recommend a 12-month operating budget be held in the reserve account for emergency purposes only. If an emergency were to arise, prior to utilizing the reserve account, the circumstance must be approved by the Board. She noted that this policy would ensure that the necessary functions of the Board would continue in case of such an emergency. After a brief discussion, it was moved and seconded (Laszlo/Davis) to approve the reserve account policy. The motion passed unanimously.

Housekeeping

Ms. Kramer noted that the Committee discussed the condition of the office storage room. Anticipating the office relocation, she stated that it would be in the best interest of the Board to remove any unnecessary files and transfer documents that must be retained to the Archives Division for permanent retention. After a brief discussion, the Board agreed that a partial office closure is necessary to complete this major task at the direction of the Executive Secretary.

LAW ENFORCEMENT COMMITTEE

The Law Enforcement Committee met on October 5, 2005 to discuss the following matters. Mr. Linscheid reported the following to the Board:

Consent Calendar

There was only one case on the consent calendar 2367 (Toronto). It was moved and seconded (Laszlo/Linscheid) to approve the consent calendar. The motion passed unanimously.

Recommended Board Actions

2291 – *Dale Marx*: The LEC recommended that the Board approve the Final Order Incorporating Settlement Agreement that was drafted following an informal conference with the respondent and his attorney. Some verbiage in the agreement was modified after Mr. Marx signed it to maintain consistency in the order. The respondent and his attorney agreed to the changes. The Order consisted of four sanctions: 1) a six month suspension; 2) a \$3,000 civil penalty; 3) a requirement to complete a survey ethics course; and 4) a peer review of Marx's work for one year. Mr. Linscheid informed the Board that the Clackamas County Surveyors Office would be willing to undertake the peer review task. Staff was directed to offer it as an option for Mr. Marx as he searches for a licensee to perform the review. It was moved and seconded (Laszlo/Davis) to approve the Final Order Incorporating Settlement Agreement. The motion passed unanimously.

2310 – *Todd Pote*: Following an informal conference with the respondent and his attorney, the LEC recommended that the Board close the case and withdraw the Notice of Intent. It was moved and seconded (Laszlo/Davis) to close the case, Notice of Intent Withdrawn. The motion passed unanimously.

2328 – *Svend Sorensen*: The LEC recommended that the Final Order Incorporating Settlement Agreement that was drafted following an informal conference with the respondent be approved. The settlement waived the noticed sanction granted that Mr. Sorensen admits his violations and refrain from offering engineering service in Oregon until being granted a license. It was moved and seconded (Laszlo/Davis) to approve the Final Order Incorporating Settlement Agreement. The motion passed unanimously.

Expert Reviewers and Witnesses

Staff presented the Board with a memorandum outlining the information gathered since the last Board meeting. The Board addressed the topic of whether the scope of work that would be assigned to the reviewers would consider them to be under the direction and control of the Board, a requirement for volunteer status. Volunteer status is the key for covering the liability of reviewers. In contrast, some members felt that paying reviewers may hold the reviewer accountable and speed the process of getting a quality report back to the Board.

This topic will again be placed on the Law Enforcement Committee agenda for review. In response to a staff inquiry of what additional information would be useful to determine a plan for future reviewers, the Board suggested providing copies of previous and current personal service contracts and a copy of the DAS volunteer coverage policy. The LEC

will evaluate the contract options decide whether or not to pay reviewers. The Committee will also examine the process outlined in the DAS policy regarding the notification of DAS for each volunteer OSBEELS wishes to use and whether or not paperwork must be submitted.

Miscellaneous

Memphis Memorandum: Staff presented the LEC with a memorandum that included several new ideas for the Committee, some of which were brainstormed following the NCEES Law Enforcement Workshop in Memphis. The topic of cost recovery for LE investigations was briefly discussed. The Board does not currently have the statutory authority to do so and future legislation would be difficult. This idea was abandoned. Mr. Linscheid commented that the informal conference script drafted by staff worked well at the last meeting. It gave the respondent a better understanding of the process. President Neathamer commented that it would greatly improve consistency of all the informal conferences. The last topic dealt with further outreach efforts by the Board. Some possibilities included contacting Building Officials and Fire Marshals.

Land Surveying Standards: It is apparent that there are variations in the practice of surveying throughout the state. ORS 209 does not provide specific guidance with respect to the practice. Past PLSO attempts at creating a standards manual were unsuccessful especially given the differing local ordinances, and levels of review for surveys. At this juncture, the Board will not pursue the standardization of Oregon land surveying practices.

Disciplinary Action Notification: Staff sent a disciplinary action notification memorandum concerning the suspension of Steve Clifford, PLS to all of the Oregon County Surveyors via both email and U.S. Mail. An updated email list was collected and will be used for future notifications. A favorable response was received from those returning comments to the Board office.

Staff also sent a full list of inactive licensees to the County Surveyors. Mr. Persons expressed interest in receiving this list for use at ODOT. He was informed that state agencies could obtain the password and access to the list. The Board emphasized that it was very important to keep the list up to date.

Case Status Report/Settlement Agreement Monitoring

Mr. Linscheid noted that the Board packet included a copy of the case status report and the settlement agreement monitoring report.

2369 – *Patrick Barrett:* There was not a typographical error; the complainant and the respondent are different individuals that have the same name.

2279 – *Janice Huskey:* A hearing is scheduled for November 29, 2005.

It was also noted that there were several cases with allegations related to right of entry violations.

2211 – *Perry Wickham*: A hearing is scheduled for January 26, 2006. AAG Dahlin plans to file a motion for summary judgment prior to that date.

2386 – *Bruce Henderson*: Gary Anderson presented information to the Board concerning his communications with the respondent and the Board. Mr. Anderson first contacted the Board with an inquiry about Mr. Henderson’s company and did not file a complaint. The respondent then contacted him and relayed exaggerated information regarding the Boards processing of the case. Mr. Anderson wished for clarification of the situation from the Board. Staff outlined the steps taken after the initial contact from Mr. Anderson and provided him a copy of the emailed message notifying him of the Boards actions. Both Mr. Anderson and Board agreed that the proper steps were taken.

Mr. Anderson also mentioned the use of the surveying definition checklist based upon Senate Bill 55. The Board had previously decided to place the checklist in the next newsletter. However, other options should be explored to deliver the document to a broader audience than licensees who receive the newsletter.

Tom Gallagher, PLSO Lobbyist: Mr. Gallagher wanted the Board to be aware that there may be a growing level of legislative scrutiny relating to disciplinary actions against registrants taken by Boards throughout the State. With the Board’s interest in expanding the peer review process, the legislature will be looking for consistency and signs of favoritism.

When asked by President Neathamer about the Board being brought in under another agency and losing its semi-independent status, Mr. Gallagher responded by identifying the types of problems being encountered by semi-independent agencies, such as procedural errors that are causing financial difficulties. He stated that it is important for agencies to work closely with their DOJ Assistant Attorney General. There are not many things that the Board can do to prevent changes besides continuing to be aware of and monitor the activities of other agencies and the legislature, which he will also be doing.

PROFESSIONAL PRACTICES COMMITTEE

The Professional Practices Committee met on October 4, 2005 to discuss the following matters. Ms. Laszlo reported the following to the Board:

Signatures on Seals – Jim Greenman

Ms. Laszlo summarized a comment received from Mr. Greenman regarding “wet” signatures on final documents. She stated that the Committee discussed different file formats and felt that the current technology is still limited to assuring a document’s originality. Mr. Greenman was informed that “wet” signatures remain the best practice and clarified that original documents with the wet signature can be converted to pdf, tiff, or jpg and transmitted electronically thereafter.

Certified Engineering Geologist – Brett King

Ms. Laszlo informed the Board that staff received an email from Mr. King inquiring about the legality of a Certified Engineering Geologist to do Geotechnical engineering

work. The Committee discussed information provided by Mr. King and compiled a draft response for review by the Geology Board for further input.

HB 2596 (ORS 479.860 changes) – Delmar Souther

Ms. Laszlo informed the Board that staff received an email from Mr. Souther inquiring if the passage of HB 2596 affects the practice of electrical engineering in Oregon. The Committee saw no future changes to OAR 820-040-0010 Electrical Engineering due to HB 2596 and would like to refer his name to the Rules and Regulations Committee for possible assistance with future redrafts of OAR 820-040-0010.

Engineering Requirements – Steve Weaver

Ms. Laszlo stated that staff received an inquiry from Mr. Weaver regarding ORS 672.060(5). Mr. Weaver was informed the Committee had previously determined that companies may use the title “engineer” for employees, but the title must only be utilized internally.

Joint Meeting with the Architect Board

Ms. Laszlo summarized an informal luncheon held with the Architect Board. She inquired if the Board would be interested in holding a joint dinner meeting on May 15th. Ms. Laszlo recommended adjusting the May meeting to the 16th instead of the 9th to better accommodate long distance travelers for each Board. The members seemed favorable to this idea and there were no further comments or concerns.

Clarification of the Engineering Definition

Ms. Laszlo stated that the Committee is reviewing further information for discussing the definition of engineering at the December meeting.

Water Rights Examiner Process Update

Ms. Laszlo stated that a revised draft copy of a survey to Certified Water Rights Examiners was provided for the Committee’s review. No further action was taken. Ms. Dumas will follow up with Susanna Knight of the Geology Board and Dwight French with the Water Resources Department so that the survey may be mailed.

EXTERNAL RELATIONS COMMITTEE

The External Relations Committee met on October 4, 2005 to discuss the following matters. Mr. Taylor reported the following to the Board:

OSBEELS Website/ Oregon Examiner

Mr. Taylor informed the Board that staff is currently working to update the website due to the transition of exam administration to ELSSES. Ms. Lopez informed the Board that the new applications would soon be posted.

Ms. Lopez informed the Board that this upcoming issue would have a new look due to the recent outsourcing of the design and publishing processes. There were no further comments.

Objectives of the Committee

Mr. Taylor summarized the Committee's discussion of their mission statement. A draft was included in the Board packets. It was moved and seconded (Linscheid/Davis) to adopt the revised External Relations Committee mission statement. The motion passed unanimously.

RULES AND REGULATIONS COMMITTEE

The Rules and Regulations Committee met on October 5, 2005 to discuss the following matters. Mr. Butts requested Mr. Linscheid to update the Board on the following:

Administrative Rules for SB 55

Mr. Linscheid reported that Doug Smith attended the Committee meeting to assist in the discussion of rules to complement SB 55, which will become effective January 1, 2006. As determined at the September Board meeting, the Committee discussed rules for the Rules Hearing scheduled on December 1, 2005. Among the rules to adopt or amend that will assist the Board in implementing standards to license and regulate the profession of photogrammetry as created with the passage of SB 55 are: OAR 820-010-0010, 820-010-0207, 820-010-0215, 820-010-0230, 820-010-0255, 820-010-0427, 820-010-0450, 820-010-0610, 820-010-0618, 820-010-0625, and 820-010-0635. A copy of the proposed rules, Notice of Proposed Rulemaking Hearing and the Statement of Need and Fiscal Impact were included in the Board packets.

Amend OAR 820-040-0010 – Electrical Engineering

Mr. Linscheid informed the Board that this issue was tabled until an electrical engineer can be consulted. However, the Committee will be contacting Mr. Delmar Souther and Mr. Scott Steckley for input at a future committee meeting.

Additional Rules to Adopt or Amend at the December Rules Hearing

Mr. Linscheid briefly summarized additional rules proposed for amendment or adoption at the December Rules Hearing; 820-010-0619, 820-010-0205, 820-010-0305, and 820-010-0465.

Cut Scores for Examinations

Mr. Linscheid stated that the Committee would invite additional input from those who develop the Oregon 4-hour Specific examination prior to holding any further discussion.

EXAMINATION AND QUALIFICATIONS COMMITTEE

The Examinations and Qualifications Committee met on October 4, 2005 to discuss the following matters. Mr. Stuntzner reported the following to the Board:

Applications by Comity

Mr. Stuntzner briefly summarized applications received by Comity. Applications received from Mr. Stanley Hattersley and Mr. Petr Lovasik almost meet the requirements for licensure in ORS 672.092 and OAR 820-010-0200. After discussion of requirements, Mr. Hattersley and Mr. Lovasik will receive a follow up letters after further review by

AAG Dahlin and Ms. Lopez. The Rules and Regulations Committee will also review OAR 820-010-0200 to clarify any confusion.

Mr. Stuntzner also recapped an application by Comity received from Mr. Heberly. He stated that Mr. Heberly is lacking 6 months of experience per OAR 820-010-0200 and will be advised to reapply when he has acquired the necessary qualifying experience.

Joseph Salvadori

Mr. Stuntzner briefly summarized a request from Mr. Salvadori for a refund of his examination fees for the Structural II examination. Since the Board now requires the NCEES Structural II and the Washington Structural III for licensure as a Structural Engineer in Oregon and Mr. Salvadori resides in Pennsylvania and does not plan on practicing engineering in Oregon the Committee granted his request

Mr. Stuntzner also inquired if the new requirements for a professional structural license would require any rule modifications. Ms. Gilbert noted that in OAR 820-040-0040(2) provides the Board authority to grant licensure to an applicant that "...passes a structural engineering examination recognized by the Board..."

Sleman Hanna

Mr. Stuntzner informed the Board that the Committee received a request from Mr. Hanna to reduce the fee for his exempt status and delinquent fee. The Committee denied his request since the Committee previously determined that after the 30-day grace period, renewal fee for exempt status couldn't be reduced once the late fee has been generated.

Continuing Professional Development Audit Procedures

Mr. Stuntzner directed the member's attention to a draft copy of continuing professional development audit procedures located in the Board member's packets. After discussion, it was determined that AAG Dahlin would further review the procedures.

Exam Application Draft

Mr. Stuntzner distributed draft copies of the new examination applications. Ms. Lopez stated that any comments should be made by November 15th so that the applications can be posted to the website.

P. Doug Gilbertson

Mr. Stuntzner recused himself from this portion of the report. President Neathamer also recused himself and request Ms. Laszlo to conduct this portion of the meeting. AAG Dahlin briefly summarized the history this case, the proposed order and final order. It was noted that the since President Neathamer has recused himself from the case, Ms. Laszlo would sign the final order. After discussion, it was moved and seconded (Linscheid/Davis) to adopt the final order with changes as discussed. The motion passed unanimously.

Licensure

First Licensure Applications – Mr. Stuntzner directed the members' attention to the applicant for first licensure. It was moved and seconded (Stuntzner/Laszlo) to approve the applicant as presented. The motion passed unanimously.

Geotechnical Applications by Prior Practice – Mr. Stuntzner directed the members’ attention to the applicant seeking registration by prior practice. It was moved and seconded (Stuntzner/Laszlo) to approve the applicant as presented. The motion passed unanimously.

Comity Applications – Mr. Stuntzner directed the attention of the Board to the list of 65 applicants for licensure by Comity. It was moved and seconded (Stuntzner/Laszlo) to approve the list of 65 applicants. The motion passed unanimously.

President Neathamer noted that Stu Albright previously assisted staff with the review of applications for geotechnical engineering by prior practice. With his departure from the Board, he requested John Seward to assist in future reviews. Mr. Seward stated he is pleased to assist.

NEW BUSINESS

Ms. Laszlo informed the Board that it is almost time to update the Reference Manual for Building Officials. She noted that the process should run smoothly and requested AAG Dahlin to review the current manual. There were no further comments

ADJOURN

The meeting was adjourned at 12:16p.m.

NEXT MEETINGS

Next Board Meeting:
January 10, 2006

Next Committee Meetings:

EXAMINATIONS & QUALIFICATIONS:	Thursday, December 1 st at 8:00a.m.
PROFESSIONAL PRACTICES:	Thursday, December 1 st at 10:00a.m.
FINANCE:	Thursday, December 1 st at 12:00p.m.
EXTERNAL RELATIONS:	Thursday, December 1 st at 12:30p.m.
RULES & REGULATIONS:	Thursday, December 1 st at 1:00p.m.
LAW ENFORCEMENT:	Friday, December 2 nd at 9:00a.m.