

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

DRAFT

Minutes of Meeting  
January 14, 2003

**CALL TO ORDER**

President Albright called the meeting to order at 9:04 a.m. in the Conference Room of the OSBEELS Office, 728 Hawthorne Ave., N.E., Salem, Oregon.

**Members Present:**

Stuart Albright  
Charles Crump  
Steve Dyrnes  
Charles Hester  
Susanna Laszlo  
Dan Linscheid  
Bob Neathamer  
Joel Smith  
Ron Stuntzner  
Dave Taylor  
Bob Walker

**Visitors Present:**

Fran and Sharon Coxen  
Gregg Ross

**Others Present:**

Kathi Dahlin, Assistant Attorney General  
Mari Lopez, OSBEELS Executive Assistant  
Charles Thompson, OSBEELS Investigator  
Brian Halfman, OSBEELS Investigative Assistant  
Ed Graham, OSBEELS Executive Secretary

**APPROVAL OF MINUTES**

It was moved and seconded (Laszlo/Dyrnes) to approve the minutes of the meeting of November 12, 2002, as distributed. The motion passed unanimously.

## **PUBLIC INPUT**

President Albright welcomed the visitors and invited any comments.

Gregg Ross advised that he was interested in any activity related to Compliance File #2260 that was on the Consent Calendar. Neathamer indicated the case was to be removed from the calendar and referred back to the Law Enforcement Committee. There were no other comments from the visitors.

## **APPROVAL OF AGENDA**

Stuntzner requested the Agenda be amended. He requested the following additions to Item 11. Examination & Qualifications Committee: E. Action on October 2001 JPEC Examinees; F. Pre-registration Questionnaire; G. Korean Examinations; H. Rule on Repeat Examinations; I. Policy on Structural Practice; and J. Offshore Proctor Fee. The agenda was accepted as amended.

## **EXECUTIVE SECRETARY'S REPORT**

Graham's report follows:

### **Functions:**

Examination/Registration – The October examination results are on the agenda for Board approval and preparations for April are underway. The cutoff for the April exam is January 15, the day after the OSBEELS meeting. In addition to the PLS 4-hour, there is only one state specific PE examination required for April and that's the Forest Engineering test.

Committee Activities – We have seen activity from each of the standing committees during the past month. Law Enforcement, Examination and Qualifications, Rules and Regulations, and Professional Practices Committee each met during the interim. The External Communications Committee has been active as well and is gearing up for the legislative session that will start on January 13, 2003.

Administrative Activities – Annual renewal activity and examination application review has dominated the majority of the administrative staff's time since the last meeting. A total of 5,000 notices were mailed in November.

### **Staffing:**

I'm pleased to report that the Compliance Staff (Brian and Charles) are still with us and are continuing to learn the procedures through constant involvement with complainants, respondents, and the Department of Justice.

### **Challenges:**

Information required for the Annual Report to the Legislature is currently being compiled by staff and will be delivered to the Governor, the Senate President, Speaker of the House, and every single member of the Legislative Assembly on Monday, January 13 as required by ORS 192.045. A copy of the report will also be available to members of OSBEELS.

The next challenge will be the development of a 2003 – 2005 budget.

## **PRESIDENT'S REPORT**

President Albright cited four items:

- 1 – The Legislature is in session and the agency should be looking for any measure that could impact practice or the regulation of engineering and surveying as well as any measure that could result in re-organizational structure. Tracking will be important. Stay in touch with your individual legislators during the session.
- 2 – The OSBEELS President will be attending the NCEES Presidents Assembly in Alaska next month and will have a report on the activities for the March meeting of the Board.
- 3 – If the Board approves the changes suggested during the November hearing, the new Geotech branch will be added to the list of branches and current PE's will be asking about applications on the basis of prior practice. The criteria for adding the new branch should be completed soon and will be distributed by e-mail to all members for review.
- 4 – President Albright requested staff develop a calendar of events for OSBEELS to cover at least six months in advance. The calendar would include meeting dates and times; exam dates; etc. The calendar could be updated at each OSBEELS meeting for future reference.

## **FINANCIAL REPORT**

Hester discussed the P&L Report in the folders and announced that preparations were underway on the 2003 – 2005 Budget. A draft will be available prior to the next Finance Committee meeting. He also is anticipating additional charts and graphs from the accounting software upgrade to include both income, expenses, and show trends that might develop in each. At present, the agency checking account holds \$176,000 and the sweep account holds \$388,000. Hester advised that failure of Measure 28 could have an adverse impact on OSBEELS since the Legislature will be looking at any agency with reserves. Members had received copies of the revenue summary from foreign examinations and Hester indicated he would like to see a comparable summary showing expenses for the next committee meeting.

## **LAW ENFORCEMENT COMMITTEE**

Law Enforcement Committee Chair Neathamer reported that there are 25 cases on the consent calendar; 15 of those are scheduled to close if the Board approves. Before proceeding, it was requested that cases 2182, 2190, 2227, 2229, 2250, and 2260 be removed from the consent calendar and considered separately. It was moved and seconded (Neathamer/Dyrnes) to adopt the recommendations for those cases remaining on the consent calendar. The motion passed unanimously.

#2182 – The Board processed a Final Order assessing a civil penalty in the amount of \$4,000 against the respondent. The respondent has now submitted a counter offer of \$2,000 and is willing to sign the order if accepted. Based on the circumstances surrounding the case, this appeared to be an efficient way to close the matter. It was moved and seconded (Neathamer/Stuntzner & Hester) to accept the \$2,000 offer. The motion passed unanimously.

#2190 – It was moved and seconded (Laszlo/Neathamer) to adopt the committee recommendation. This motion passed unanimously.

#2227 – It was moved and seconded (Linscheid/Dyrnes) to combine this file with #2209 and draft a Notice of Intent to Assess Civil Penalties as appropriate. The motion passed unanimously.

#2229 – It was moved and seconded (Neathamer/Linscheid) to proceed with a Notice of Intent to Revoke. The motion passed unanimously.

#2250 – It was moved and seconded (Neathamer/Dyrnes) to issue a Notice of Intent to Revoke. The motion passed unanimously.

#2260 – It was moved and seconded to return this file to the Law Enforcement Committee for review. The motion passed unanimously.

A total of six cases were referred to the Joint Committee (OSBGE and OSBEELS) according to Chair Neathamer. The need for some degree of clarification on procedure is apparent. It's not clear how the draft recommendations are to be developed or whether the originating Board was to develop a recommendation before sending the files to the joint committee. Albright indicated the matter will be discussed by the Joint Committee. Albright and Stan Kelsey are the OSBEELS representatives on the Joint Committee.

LEC Chair Neathamer reported that prior to the meeting on December 13, 2002, the Committee conducted three informal conferences that resulted in the development of settlement agreements. Draft Stipulated Final Orders for cases #2145, #2150, and #2170 are pending signatures by the respondents.

The Committee discussed the situation in Eastern Oregon and is suggesting cases #2191, #2214, #2215, #2245, #2248, and #2258 be investigated by a single peer reviewer. A volunteer has already agreed to assist if the Board agrees. There were no objections. Chair Neathamer advised that case #2236 will be dealt with separately, but will likely reviewed by the volunteer as well.

It was moved and seconded (Walker/Laszlo) to go into executive session to discuss a case in the Court of Appeals. President Albright took the Board into executive session as provided in ORS 192.660(1)(h) to consult with legal counsel on case #2024. Visitors were invited to leave the room. Upon returning to regular session, President Albright announced that no final action was taken and no final decisions were made by the Board while it was in executive session. In regular session, it was moved and seconded (Neathamer/Laszlo) to deny Respondent's request to stay the revocation of his license. Smith indicated he did not agree with the finding that the respondent was negligent in his surveying practice recalling that the issue was 'practicing engineering without a license.' Smith also indicated he was unprepared to act on this matter, not having the chance to review the AG's memo prior to the meeting. The motion passed with two (Linscheid and Smith) opposed. Taylor submitted additional comments related to his review of the case at which point, Dahlin suggested the Board return to executive session if further discussion of the case were desired. It was moved and seconded (Linscheid/Taylor) to go back into executive session. The voice vote was unclear and the roll was called.

In favor: Dyrnes, Linscheid. Opposed: Crump, Laszlo, Neathamer, Smith, Stuntzner, Taylor, Walker. Hester abstained. The motion to return to executive session failed. Chair Neathamer announced the Law Enforcement Committee will meet at the OSBEELS Office at 8:30 a.m. on February 14, 2003 (Yes, that is Valentines Day).

## **PROFESSIONAL PRACTICES COMMITTEE**

Chair Laszlo discussed the items that were addressed during the Committee meeting on December 12, 2002.

An effort was made to respond to the letter from Stephen Oram, but there is still confusion as to the nature of the questions. More work is required on this item. A discussion with Kathy Nelson, ODOT Highway Engineer, will be included in this additional research to help put the issues into perspective. The Executive Secretary will also confer with the Attorney General on this matter.

The letter from Richard Kelson was discussed and a response has been prepared. Copies of the response were distributed to members of the board. A copy of the letter is included with these minutes.

Chair Laszlo was recently a visiting lecturer before the Forest Engineering class at OSU. Laszlo reported that the class was interested in professional licensing and continuing professional development. Chair Laszlo also indicated that Steve Tesch and Marvin Pyles of OSU would like to attend a future Professional Practices Committee meeting to discuss some academic/professional issues. They will be invited to attend the meeting in February.

Many of the questions addressed by the Committee point to the need to interface with the Building Codes Division. Chair Laszlo plans to meet with Ravi Mahajan informally to discuss items such as significant structures, plan review activities, and fire protection system design.

It was also pointed out that work should begin on revising the Handbook for Building Officials. Graham explained that the handbook is updated after each legislative session and the expense is shared between the Board of Architect Examiners and OSBEELS. This year, it's OSBEELS' turn to take the lead on the project and the Professional Practice Committee is the appropriate conduit. Walker reported that he had been responding to questions that relate to structural matters. Some of the questions have been asked and answered before. He referred to a published article in the February 1999 Edition of the Oregon Examiner that should be entered into the policy manual. Copies of the article are to be distributed to the members for comments.

Chair Laszlo announced that the Professional Practices Committee will meet on February 13, 2003, at 10:00 a.m. in the OSBEELS office.

## **EXTERNAL RELATIONS COMMITTEE**

Chair Crump directed the members' attention to the 2003 Legislative Session Monitoring Procedure that was distributed prior to the meeting. In short, Chair Crump, Hester, and Smith are to obtain weekly information on legislative activities, update the members via e-mail, identify bills of interest, and provide notice of scheduled hearings. Linscheid will also assist. Members need to be ready to act quickly as the session progresses. President Albright encouraged the Executive Secretary to work with the legislative staff as well as the legislators.

## **RULES AND REGULATIONS COMMITTEE**

Chair Walker distributed a chart outlining the OAR sections under review by the Committee. The Committee will consider definitions for: active practice, inactive practice, retired, non-resident, and a definition of surveying. Other items included: modifying documents; electronic documents, seals and signatures; information to be provided for PDH audits; extension of time to comply with PDH requirements; and guidelines when PDH requirements are not met.

The Committee reviewed the testimony on the proposed geotechnical branch rule that was presented during the hearing on November 12, 2002. As a result, some minor revisions were incorporated into the proposal. The requirement to be a “PE especially qualified in civil engineering” was restored; the effective date was replaced with the “one year after the first examination” language already in OAR; some of the restrictive language related to references was removed and more definitive language was added concerning experience; credit for teaching was recognized as qualifying; and the penalty for use of the title was clarified. It was moved and seconded (Walker/Crump) to adopt the revised version of the geotech rule 820-010-0200. During the discussion, a friendly amendment was offered and accepted to include “unless otherwise approved by the Board” where the requirement for a civil registration was stated. This would allow branches other than “civil” to apply, but would require board approval. It was also pointed out by Dahlin that subsection (10) should actually be added to OAR 820-020-0010 (3). The motion, with the friendly amendments and the AG suggestion passed unanimously.

It was moved and seconded (Walker/Taylor) to adopt the clarified language related to CPD activities 820-010-0635. This motion passed unanimously.

Walker also pointed out that the definitions related to Geotechnical engineering that were not adopted in November could now be considered, since the geotech branch has been approved. It was moved and seconded (Walker/Dyrnes) to adopt the definitions as written. The motion passed unanimously. Before leaving this issue, Dahlin realized that OAR 820, Division 20 had not been included in the hearing notice, therefore, the suggestion to include subsection (10) in the code of conduct would require a new hearing. With that, it was moved and seconded (Walker/Laszlo) to rescind the portion of the vote related to moving subsection (10) and consider adoption later. Since this section deals with use of geotech related titles, it will not have any impact on the new branch until after certificates have been issued. The motion to rescind passed unanimously. Graham is to provide to all members, copies of the rules as they now stand.

There was a brief discussion related to when the rules become effective. Graham reported that the rules are not effective until filed with the Secretary of State. This can be done at any time after the Board officially adopts the rules. It was understood by some members of OSBEELS that rules considered by the Board during the year would be adopted near the end of the year and become effective on January 1 of the next year. This detail will be discussed in depth by the Rules and Regulations Committee. Walker then directed the Executive Secretary to mail the letter to the Board of Geologist Examiners that had been drafted with comments from the A.G. concerning practice issues. Chair Walker announced that the Rules and Regulations Committee will meet in the OSBEELS office on February 13, 2003, at approximately 1:30 p.m.

## EXAMINATION AND QUALIFICATIONS COMMITTEE

Chair Stuntzner brought forward the list of applicants seeking registration by comity. It was moved and seconded (Stuntzner/Laszlo) to approve the list of 48 applicants as presented. The motion passed unanimously.

It was moved and seconded (Stuntzner/Dyrnes) to approve the list of 91 examinees achieving a passing score on the October 2002 PE examinations (Acoustical, Chemical, Civil, Control Systems, Electrical, Environmental, Mechanical, Metallurgical, Structural, and Traffic). The motion passed unanimously.

It was moved and seconded (Neathamer/Linscheid) to approve the list of 15 examinees achieving a passing score on the October 2002 Oregon 4-hour PLS examination. The motion passed unanimously.

On the Memorandum of Understanding with JPEC, Laszlo explained the changes that were introduced during the November meeting of OSBEELS. It was moved and seconded (Linscheid/Neathamer) to approve the document. Dahlin suggested the title should indicate “amended”. Also, the signature lines will be updated to reflect current titles. The motion passed unanimously with the suggested changes.

Chair Stuntzner referred to a series of e-mail messages exchanged between himself and JPEC (Uchida). The subject of the exchange related to scores from the October 2001 FE examination that had not been released due to candidates failing to meet statutory requirements in Oregon. Students admitted to examinations in their senior year on the basis of expected graduation must provide proof to OSBEELS that they have completed those academic requirements within 4 months following the date of the test. Some of the JPEC candidates did not meet the 4-month deadline due to differences in graduation schedules. Representatives from JPEC are planning to visit with members of E&Q in February to discuss this problem.

Laszlo brought up the Pre-registration questionnaire (take-home exam) and suggested more work was needed on the document. She requested each member of the Board review the questionnaire and forward comments to her for revision prior to the March meeting of OSBEELS.

Neathamer briefly reported on his concerns related to repeat test takers. Some individuals are being admitted to examinations each time they are offered and don't appear to be making any progress toward achieving a passing score. Information is being collected from other jurisdictions on this subject. So far, it appears that many states limit the number of times a candidate can be admitted to a test. The average is three attempts. A more complete report will be prepared when the information becomes available.

The E&Q Committee has been discussing the offshore examination policy with the Society of American Military Engineers (SAME) in Korea. Most of the OSBEELS concerns were discussed during a telephone conference where John Anderson, the individual who has been working with OSBEELS staff for many years, was included in the committee meeting. Based on

the information from that meeting, a Memorandum of Understanding (MOU) with SAME was developed for consideration by OSBEELS. It was moved and seconded (Stuntzner/Laszlo) to adopt the MOU. This motion was withdrawn. After further explanation of the process in Korea, it was moved and seconded (Laszlo/Taylor) to administer the PE and the FE examination in Korea through SAME. The voice vote was not clear and the roll was called.

Opposed: Dyrnes, Hester, Smith, Walker. In favor: Crump, Laszlo, Linscheid, Neathamer, Stuntzner, Taylor. The motion passed with 6 votes in favor.

On the MOU, it was moved and seconded (Stuntzner/Laszlo) to adopt the MOU as discussed. The roll was again called.

Opposed: Dyrnes, Hester, Smith, Walker. In favor: Crump, Laszlo, Linscheid, Neathamer, Stuntzner, Taylor. The motion passed with 6 votes in favor. Chair Stuntzner will finalize the document and forward to Dahlin for review. It will be returned to President Albright for signature. It was noted that the policy manual should be updated to reflect these actions.

Walker commented that there are still gray areas related to when a structural engineer is required on a specific project and to what extent. He will be working with the Structural Engineers Association of Oregon (SEAO) to develop OSBEELS policy on this matter. Walker will coordinate with the Professional Practices Committee.

Chair Stuntzner suggested that the fee charged to candidates for out-of-state proctoring should be reviewed to determine if an increase is in order. The costs of facilities and transportation have increased since the rates were first established. This task was assigned to the Finance Committee for inclusion in its budget development.

Chair Stuntzner announced that the Examination and Qualifications Committee will meet at 8:00 a.m. on February 13, 2003 in the OSBEELS Office.

## **UNFINISHED BUSINESS**

### **Summary of Action Items**

The Executive Secretary did not prepare a separate list for this meeting. Laszlo pointed out that the actions items from the November meeting were identified in the minutes.

### **Executive Secretary Recruitment**

Linscheid reported that the office had received three applications and had conducted initial interviews with those three candidates. Since then, another application has been received and others have expressed an interest in applying. Timing was discussed by the Board. It was moved and seconded (Crump/Smith) to close the announcement on April 1. The motion was amended (Crump/Smith) to read "March" instead of "April." The amended motion passed with two (Neathamer, Hester) opposed. The Executive Secretary Recruitment Committee plans to meet on March 10 to develop a recommendation to be presented to the Board at the OSBEELS meeting on March 11, 2003. Members of the Board were invited to submit questions for the final interview to Linscheid as soon as possible. According to the plan, a finalist would be considered for the position at the March OSBEELS meeting and, if hired, would start work on April 1, 2003.

Under Unfinished Business, a letter from the Jackson County Surveyor containing comments and concerns regarding a recently closed law enforcement case was distributed to members of the Board. Dahlin will review the letter and draft a response. Neathamer suggested that the current law enforcement process tends to leave the complainant out of the picture. In the future, the complainant should be interviewed by an OSBEELS Investigator as soon as practical after a complaint has been received.

Dyrnes asked if OSBEELS ever participated in Engineers Week, an annual event conducted by NSPE and PEO? It was understood that PEO handled this event and OSBEELS had not been invited to get involved.

### **NEXT MEETING**

March 11 in the OSBEELS Office.

#### Future Board Meetings in 2003:

March 11  
May 13  
July 8  
September 9  
November 11 (Veterans Day)

#### Future Committee Meetings in 2003:

February 13 - 14 (conflicts w/NCEES event)  
April 10 (11 & 12 are test dates)  
June 12 - 13  
August 14 - 15 (conflicts w/NCEES event)  
October 9 - 10 (24 & 25 are test dates)  
December 11 - 12

### **ADJOURN**

The meeting was adjourned at 1:45 p.m.