



# Oregon

State Board of Examiners for  
Engineering & Land Surveying  
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Minutes of Meeting  
March 9, 2010

## **CALL TO ORDER**

President Davis called the meeting to order at 9:00 a.m. in the conference room of the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) office at 670 Hawthorne Avenue, SE Suite 220, Salem, Oregon 97301.

## **Members Present:**

Grant Davis  
Edward Butts  
Ken Hoffine  
Mari Kramer  
Dan Linscheid  
Sue Newstetter  
John Seward  
Carl Tappert  
Amin Wahab  
Sue Laszlo (excused absence)

## **Visitors Present:**

Eric Smith, Department of Revenue  
Tera Lum, Department of Revenue  
Sean Peters  
Stephen Swinehart  
Mark Meyer, PLS, Professional Land Surveyors of Oregon - Pioneer Chapter  
Michael Hardy, PE, Professional Engineers of Oregon Liaison

## **Others Present:**

Jenn Gilbert, OSBEELS Executive Assistant  
Jill Van, OSBEELS Investigator  
Allen McCartt, OSBEELS Investigator  
JR Wilkinson, OSBEELS Investigator  
Joanna Tucker-Davis, Assistant Attorney General  
Mari Lopez, OSBEELS Executive Secretary (excused absence)

President Davis welcomed the visitors to the meeting and requested the visitors to introduce themselves and briefly summarize the purpose of their attendance. Eric Smith and Tera Lum noted their attendance was related to the Department of Revenue project. Sean Peters noted his attendance was related to his application for the April 2010 examination administration and Stephen Swinehart attended the meeting to discuss the continuing professional development requirements and a settlement agreement. Mark Meyer and Mike Hardy were observing the meeting.

## **APPROVAL OF AGENDA**

Mr. Butts requested to move the Examinations and Qualifications portion of the agenda to after the noon hour due to a special meeting that will be held. This special meeting will be held at this time due to scheduling conflicts and the lack of a quorum for prior dates. Mr. Linscheid also requested to move the Law Enforcement portion of the agenda to an earlier timeframe since Mr. Swinehart was present. Mr. Seward requested to discuss the goals of the Executive Secretary under Unfinished Business. It was moved and seconded (Butts/Tappert) to approve the agenda as amended. The motion passed unanimously.

## **APPROVAL OF MINUTES**

It was moved and seconded (Kramer/Newstetter) to approve the minutes of the January 12, 2010 Board Meeting as presented. The motion passed unanimously.

## **PUBLIC INPUT**

Eric Smith updated the members regarding the Board's participation in HB 3082 Pilot Project and the Licensee Tax Compliance Information Project. He provided copies of the communications that will be sent to a majority of the registrants regarding their compliance or non-compliance with the Oregon State tax laws. Mr. Smith further informed the members that the other two Boards participating at the same level are the Nursing Board and the Landscape Contractors Board. Several members expressed concern regarding the Board's participation. Mr. Smith stated that ORS 305.385 already authorizes the Department of Revenue (DOR) to request this information. The Board is only participating in the educational aspect of HB 3082. No further action was taken.

Sean Peters addressed the Board regarding the tardiness of his Fundamentals of Engineering (FE) examination application submission and the subsequent denial to the April 2010 examination administration. Furthermore, staff inadvertently sent Mr. Peters communication regarding the April 2010 examination administration that added to his frustration. Mr. Peters would prefer to sit for the April 2010 examination administration due to his commissioning into the United States Air Force in June; feeling that there may not be enough study time for the October 2010 examinations. He also informed the Board that the tardiness of his application was due to his coursework over the last two academic years since he is currently a fifth-year senior at the Oregon State University. Mr. Peters took the course in which students are informed of the FE registration at a time when he was ineligible. After discussion, the Board upheld the decision previously made by the Examinations and Qualifications Committee; Mr. Peters application will be considered for the October 2010 examination administration.

## **EXECUTIVE SECRETARY'S REPORT**

### Committee Activities

In the absence of Ms. Lopez, Ms. Gilbert reported that the Examinations and Qualifications (E&Q), the External Relations (ERC), the Finance, the Law Enforcement (LEC), the Professional Practices (PPC) and the Rules and Regulations (R&R) committees each met during the interim. Additionally, the Standards of Land Surveying Practice Committee met on February 12, 2010. The Committee minutes were included in the packets.

### Administrative Activities

*October 2009 Oregon Specific Examinations/NCEES*

Ms. Gilbert stated that an extended deadline of March 8, 2010 was received to submit a complete list of approved candidates to the National Council of Examiners for Engineering and Surveying (NCEES). The NCEES examinations are scheduled to be held in Salem on April 16 - 17, 2010 at the Oregon State Fairgrounds and the Oregon Specific Land Surveying 4-hour Examination is also scheduled to be held in Salem on April 17, 2010 at the Chemeketa Community College. There are 24 examinees for the Oregon Specific Land Surveying 4-hour Examination. Additionally, she stated that the Certified Water Right Examination is scheduled to be held on April 9, 2010 in conference room 124 at the Water Resources Department. There are 5 examinees for the Certified Water Rights Examination and no applications were received for the Forestry Examination.

#### *Examination Agreements*

Ms. Gilbert briefly reported that Robert Burgoyne, NCEES Attorney acknowledged receipt of the draft NCEES agreement on February 12, 2010 for review. There was no additional news to offer at this time. In regards to the draft photogrammetry examination agreement with the Colonial States Board of Surveyor Registration (CSBSR), Doyle Allen, also acknowledged receipt of the draft agreement on February 22, 2010 for review. Again, there was no additional news to offer. Although nothing has been confirmed, Ms. Gilbert reported that communication with the California Board regarding the Geotechnical examination is ongoing with the hopes of extending the dates of the previous contract.

#### *Registration*

Ms. Gilbert noted that annual renewal activity for June is underway. Staff is scheduled to mail renewal reminders in April. Additionally, staff conducted a Continuing Professional Development audit on January 15, 2010. 356 Professional Engineers, 36 Professional Land Surveyors, and 3 Registered Professional Photogrammetrists were randomly chosen to participate in this audit. February 24, 2010 was the due date to respond.

#### *Water Resources Department (WRD)*

Due to a WRD internal legislative concept meeting scheduled on February 1, 2010, Ms. Lopez met with Dwight French on January 27, 2010 to revisit the concerns regarding the certification as a water right examiner (CWRE). Ms. Gilbert reported that the concerns discussed between Mr. French and Ms. Lopez included; processes, responsibilities, statutes, rules, and forms. As a result, WRD will be proposing legislation for the 2011 legislation to clear up issues related to fees, adding continuing education requirements, and the regulation of the CWRE practice. Draft language will be presented to OSBEELS in late March for review and approval. Legislative Concepts are due April 15, 2010.

#### *2011 OSBEELS Legislation*

During the December 11, 2009 meeting of the R&R Committee, it was determined to replace one of the six professional engineers with a registered professional photogrammetrist in the Oregon Revised Statute (ORS) 672.240. Ms. Gilbert reiterated that Legislative Concepts are due on April 15, 2010.

#### *2010 Joint Central/Western Zone Meeting*

The 2010 Joint Central/Western Zone meeting has been scheduled. During the January Board

meeting, five members expressed an interest in attending the meeting and were approved (Davis, Laszlo, Linscheid, Newstetter, and Tappert). Mr. Tappert confirmed his availability to attend. Additionally, Ms. Gilbert stated that the members of the New Mexico Board respectfully request support of Gilbert Chavez, PS for Western Zone Vice President and additional information was provided in the packets.

#### *NCEES 89th Annual Meeting*

Ms. Gilbert briefly stated that the NCEES 89<sup>th</sup> Annual Meeting is scheduled to be held on August 18-21, 2010 in Denver, Colorado.

#### *2007-2009 Biennial Audits*

Ms. Gilbert reported that Moss Adams, LLP completed the Board's audit. The report was included in the packets for review. President Davis inquired of the Financial Statement Finding 2009-1. Ms. Gilbert informed the Board that this statement was a general statement provided to all the Semi-independent Boards audited and additional discussion was going to be held during a future Semi-independent Board Administrator Meeting. Currently, the Board utilizes an outside CPA firm, CTC Associates, to assist with the financial and audit responsibilities of the Board.

#### *Special 2010 Legislation*

Ms. Gilbert stated that House Bill (HB) 3604 is possibly not an issue. HB3604 and the A-Engrossed Bill were included in the packets. Also, lobbyist Stephen Kafoury is currently monitoring HB3696 for the Semi-Independent Agencies.

#### *Board Vacancies*

Ms. Gilbert noted that the Board has yet to fill the engineer position that was vacated by George Gross and no replacement has been found for Sue Laszlo's position. As a result, the External Relations Committee will be contemplating different methods of recruitment for these vacancies. Mr. Wahab stated that he has contacted the Governor's Office regarding his re-appointment.

#### *Staffing*

Ms. Gilbert briefly noted that the position that Ms. Meyer resigned from in April 2009 has yet to be filled. Mr. Seward inquired if action has been taken regarding the Department of Administrative Services (DAS) classification and compensation review. Ms. Gilbert reported that Ms. Lopez has made contact with the appropriate DAS services, however, due to the budget shortfall, DAS is currently understaffed in this service area. To her knowledge, Ms. Lopez has not yet received a response from DAS regarding the feasibility of the Board's request.

### **PRESIDENT'S REPORT**

President Davis briefly reported that he and Amin Wahab met with members of the Oregon Board of Architect Examiners (OBAE) on February 21, 2010. A topic discussed was the construction administration design required by the professional registrant. This is a requirement in the OBAE rules and the OBAE members inquired if the OSBEELS Board would ever consider this requirement. As food for thought, there was no further discussion.

President Davis also reported that he participated with other volunteers in the cut-score workshop for the Washington Structural III examination. He noted that the Oregon examinees

and the Washington examinees had similar pass rates. There was no further discussion.

## **LAW ENFORCEMENT COMMITTEE**

Mr. Linscheid reported that the LEC met on February 11, 2010, to discuss the following matters:

### *2494 – Swart – Motion for Summary Determination*

Mr. Linscheid reported that the Committee was previously scheduled to meet in an informal conference on December 10, 2009, with respondent Thomas Swart, PLS, to discuss a Notice of Intent to Revoke Registration and Assess a \$16,500 Civil Penalty for violations of Oregon Revised Statute (ORS) 672.200(2),(4); ORS 672.025(1),(2); ORS 672.045(1),(4),(6); ORS 209.250(1),(3),(4); Oregon Administrative Rule (OAR) 820-010-0605; OAR 820-010-0620(1),(4); OAR 820-010-0621(1),(2); OAR 820-020-0015(9),(10); OAR 820-020-0020(1),(2); OAR 820-020-0025(1); OAR 820-030-0060; and OAR 820-030-0070. However, Mr. Swart did not appear. Upon consideration, the Committee determined to move forward to a hearing. Upon the review of the case by the Office of Administrative Hearings (OAH), it was noted that Mr. Swart did not request a hearing in writing. Therefore, OAH determined that the Swart case was not under their jurisdiction. As a result, Mr. Swart was offered a settlement agreement. Mr. Linscheid briefly summarized that Mr. Swart had signed the settlement agreement, but that he had not fulfilled the terms of the agreement as of yet. The deadline was March 9, 2010, at 5:00 p.m. Mr. Linscheid noted that if Mr. Swart does not fulfill the terms of the settlement agreement by the deadline, then the \$16,500 suspended civil penalty would be imposed. After a discussion of the options available, It was moved and seconded (Linscheid/Newstetter) to approve the settlement agreement was moved and seconded. The motion passed unanimously.

### *2531 – Stephen L. Swinehart*

The Committee previously met in an informal conference with respondent Stephen Swinehart, PLS, to discuss a Notice of Intent to Suspend Registration and Assess a \$3,000 Civil Penalty for violations of ORS 672.200(4), OAR 820-010-0635(1), (5), OAR 820-015-0026(1),(2), OAR 820-020-0015(7),(8) and OAR 820-020-0025(1). The Board opened a case against Mr. Swinehart when he failed to respond to an audit of his professional development hour (PDH) units for the July 1, 2004 to June 30, 2006 biennial renewal period. The Committee had proposed to reduce the civil penalty to \$1,000 and suspend Mr. Swinehart's registration from March 9, 2010 through June 30, 2010. At the end of the suspension, reinstatement of his registration would then be contingent upon Mr. Swinehart providing proof of 30 PDH units for the current period. During the informal conference, Mr. Swinehart had verbally agreed to the settlement agreement but had not returned a signed version in time for this Board meeting.

Mr. Swinehart attended the Board meeting in order to speak with the Board. He stated that he had not signed the settlement agreement because he wanted to have some things modified on it before he signed it. In particular, he wanted it to indicate that he had responded to the Board. In addition, Mr. Swinehart stated that he wanted to request another informal conference with the Committee to work out a different settlement agreement. He continued in stating that he had talked to other private surveyors, particularly in small practices, and found that they also had concerns and questions regarding what qualified as continuing education. He noted that small practices located on the coast have a hard time traveling to get to conferences for their continuing

education. So, he requested to meet with the Committee again to come up with ideas and recommendations to help him and others become compliant with continuing education requirements. Mr. Linscheid reminded the Board and Mr. Swinehart that there was also an allegation of being untruthful, because he checked the box on his renewal form that said he had completed his required 30 PDH units. Mr. Swinehart agreed, but stated that he wasn't trying to be untruthful; he thought that he was complying with the requirements.

Mr. Linscheid stated that the settlement agreement could be revised to note that Mr. Swinehart disagreed with the allegation, but that the Board could not offer suggestions for dealing with the hardship of trying to obtain PDH units because of his location. Mr. Swinehart stated that it wasn't fair that larger firms had an advantage over struggling smaller practices and would like to find a way to make it easier. Mr. Linscheid offered another informal conference with Mr. Swinehart or to insert Mr. Swinehart's disagreement with the allegation in the settlement agreement. Mr. Swinehart requested another informal conference. A discussion ensued regarding the appropriate venue for making PDH unit attainment easier. The Board noted that professional organizations are a more appropriate venue for the discussion, not the Board, and that the requirement was a statutory one.

After discussion, Mr. Swinehart reiterated that he was frustrated, but would sign the settlement agreement. He continued to note that he still wanted guidance on how he could determine what PDH units were sufficient. After leaving the Board meeting, Mr. Swinehart returned again stating that he had changed his mind and would like to have another informal conference. The Committee agreed to meet with Mr. Swinehart again on April 8, 2010.

#### *2535 - Kenneth A. Reimann*

Mr. Linscheid reported that the Committee met with respondent Kenneth Reimann to discuss a Notice of Intent to Assess a Civil Penalty of \$2,000 for violations of ORS 672.045(1),(2),(3). The Board received a complaint from Mark Richards, PE, alleging that Mr. Reimann used his seal and engineering calculations without his permission on two occasions. The Committee proposed to drop the second allegation since Mr. Reimann did not submit Mr. Richards' calculations a second time after he was asked by Mr. Richards not to, but to maintain a \$1,000 civil penalty for the July 9, 2008 violation. It was moved and seconded (Linscheid/Tappert) to approve the \$1,000 civil penalty settlement agreement was moved and seconded. The motion passed unanimously.

#### *2545 – Dewayne H. Kliewer*

Mr. Linscheid reported that the Committee met with respondent Dewayne Kliewer, PE, to discuss a Notice of Intent to Assess a \$1,000 Civil Penalty for the unlicensed practice of surveying violating ORS 672.025(3); ORS 672.045(1),(2); and OAR 820-010-0720(1). It was alleged that Mr. Kliewer tied existing monuments between the Stiglich property and a 15' tax lot to the north of Stiglich's property which belonged to the River Park Homeowner's Association (HOA) in Clackamas County, Oregon. This constituted the practice of land surveying for which Mr. Kliewer is not licensed. Upon consideration, the Committee proposed to maintain a civil penalty of \$1,000 or Mr. Kliewer could seek a hearing through the Administrative Law Judge (ALJ). Mr. Linscheid reported that Mr. Kliewer had requested a hearing.

*2521 – Roger G. Link*

Mr. Linscheid reported that the Committee met with respondent Roger Link, PE, to discuss a Notice of Intent to Assess a \$2,000 Civil Penalty for a failure to provide documentation of compliance with continuing professional development requirements and failing to cooperate with the Board, violating OAR 820-010-0635(1),(5) and OAR 820-020-0015(7),(8). The Board opened a case against Mr. Link when he failed to respond to an audit of his PDH units for the January 1, 2005 to December 31, 2006 biennial renewal period. Upon consideration, the Committee proposed reducing the civil penalty to \$1,000 if Mr. Link would also admit the violations. It was moved and seconded (Linscheid/Tappert) to approve the \$1,000 civil penalty settlement agreement. A brief discussion ensued regarding why Mr. Link wasn't facing suspension when another respondent was facing suspension for the same thing. Mr. Linscheid noted that Mr. Link cooperated with Board investigators and was not untruthful to the Board. The motion passed unanimously.

*2543 – Daniel Shafer*

Mr. Linscheid reported that the Committee met with the respondent Daniel Shafer to discuss a Notice of Intent to Assess a \$2,000 Civil Penalty for violations of ORS 672.020, ORS 672.0451),(2) and OAR 820-010-0720(1). The Board received an anonymous complaint that alleged Mr. Shafer was practicing engineering without a license. Mr. Shafer stated that he was not entirely prepared for the informal conference and had submitted a written public records request for a copy of all the information the Board had regarding his case. He requested a postponement of his informal conference and the Committee agreed to postpone until April 8, 2010.

*2516 – Edward M. Tanner*

Mr. Linscheid reported that the Committee met with the respondent Edward Tanner to discuss a Notice of Intent to Assess a \$3,000 Civil Penalty for failure to provide documentation of compliance with continuing professional development requirements, failure to cooperate with the Board, and being untruthful, violations of OAR 820-010-0635,(1),(5); OAR 820-020-0015(7),(8); and OAR 820-020-0025(1). The Board opened a case against Mr. Tanner when he failed to respond to an audit of his PDH units for the July 1, 2004 to June 30, 2006 biennial renewal period.

Ms. Gilbert noted that Mr. Tanner had been communicating with Investigator Allen McCartt stating that he disagreed with the intent of the settlement agreement reached during the February 11, 2010 informal conference with the Committee. Through his communications, Mr. Tanner had stated that he did not agree the intent was to disallow him to renew his registration. Therefore, he requested to meet with the Committee in an informal conference again. Mr. Linscheid stated that the Committee would meet with Mr. Tanner again during the April meeting.

*2537 – Gary R. Shevik*

Mr. Linscheid reported that the Committee met with respondent Gary Shevik to discuss a Notice of Intent to Assess a \$2,000 Civil Penalty for the unlicensed practice of engineering, violations of ORS 672.007(1)(a)(b)(c); ORS 672.020; and ORS 672.045(1)(2). The allegation was that Mr. Shevik signed a Declaration of Engineer as part of a civil proceeding that stated, "I am a

civil engineer with an emphasis in construction engineering,” and that Mr. Shevik provided testimony regarding engineering. The Committee proposed to remove the allegation regarding his testimony and reduce the civil penalty to \$500 for the signed Declaration of Engineer. The Board would also incorporate language that it was not intentional and that Mr. Shevik corrected the violation promptly. It was moved and seconded (Linscheid/Butts) to approve the \$500 civil penalty settlement agreement. The motion passed unanimously.

*2524 – Douglas W. Weiss*

Mr. Linscheid reported that the Committee met by teleconference with respondent Douglas Weiss to discuss a Notice of Intent to Assess a \$2,000 Civil Penalty for a failure to provide documentation of compliance with continuing professional development requirements and not cooperating with the Board, violations of OAR 820-010-0635(5) and OAR 820-020-0015(7),(8). The Board opened a case against Mr. Weiss when he failed to respond to an audit of his PDH units for the July 1, 2004 to June 30, 2006 biennial renewal period.

The Committee proposed to reduce the civil penalty to \$500 if Mr. Weiss would admit the violation of being uncooperative. It was moved and seconded (Linscheid/Wahab) to approve the \$500 civil penalty settlement agreement. A discussion ensued regarding the reduction of the civil penalty to \$500. Mr. Linscheid reported that Mr. Weiss responded and worked with Board investigators. It was also noted that there are varying levels of cooperating with investigators and that no case is the same as another. Mr. Linscheid stated that the Committee looks at each case’s merits and weighs accordingly to ensure consistency based on the elements. The motion passed unanimously.

*2538 – Kris Disbrow*

Mr. Linscheid reported that the Committee met with respondent Kris Disbrow in an informal conference to discuss a Notice of Intent to Assess a \$2,000 Civil Penalty for the unlicensed practice of land surveying, violating ORS 672.025(1); ORS 672.045(1),(2); and OAR 820-010-0720(1). Mrs. Jennifer Disbrow was also in attendance. The Board opened a case against Mr. Disbrow for offering mortgage survey inspections on his organization’s Web site and for locating monuments and property lines and preparing maps reporting them. The Committee proposed a \$500 civil penalty on the condition that the Disbrows do not do work anymore extensive/detailed than they currently perform or that would make a client perceive their work was an actual survey. It was moved and seconded (Linscheid/Tappert) to approve the \$500 civil penalty settlement agreement. The motion passed unanimously.

*2544 – David L. Roshau*

Mr. Linscheid reported that the Committee met by teleconference with respondent David Roshau in an informal conference to discuss a Notice of Intent to Assess a \$1,000 Civil Penalty for the unlicensed practice of engineering violating ORS 672.020(1), ORS 672.045(1),(2), and OAR 820-010-0720(1). The Board received a copy of a letter Mr. Roshau had signed that was distributed to local businesses offering “work involving every facet of engineering including: Architectural, Civil, Structural, Electrical, Mechanical, HVAC, Interiors/Space Planning, Utilities, Landscaping.” The Committee proposed a \$500 civil penalty. It was moved and seconded (Linscheid/Butts) to approve the \$500 civil penalty settlement agreement. The motion passed unanimously.

*2520 – Bret M. Young*

Mr. Linscheid reported that the Committee met with respondent Bret Young, PE, to discuss a Notice of Intent to Assess a \$500 Civil Penalty for violations of ORS 672.200(4); OAR 820-010-0635(1), (5); OAR 820-010-0635(1),(5); and OAR 820-020-0015(7). The Board opened a case against Mr. Young when he failed to provide documentation of 15 delinquent PDH units for the July 1, 2004 to June 30, 2006 biennial renewal period. The Committee proposed a \$250 civil penalty if Mr. Young admitted the violation. It was moved and seconded (Linscheid/Tappert) to approve the \$250 civil penalty settlement agreement. The motion passed unanimously.

**Cases Reviewed**

Mr. Linscheid reported that the Committee reviewed the following cases:

*2515 – Earl Eblen / OSBEELS*

Respondent Earl Eblen, PE, was a non-resident Oregon registrant selected to participate in an audit of his PDH units for the renewal period January 1, 2004 to December 31, 2005. Prior to April 5, 2007, OAR 820-010-0635(7) allowed non-residents to satisfy Oregon's continuing professional development requirements when licensed in and having met the requirements of any NCEES member state. The Idaho Board confirmed Mr. Eblen's license was active during the audit period, and Idaho did not require PDH units prior to May 8, 2009. The Committee recommended the Board approve closing the case against Mr. Eblen as allegations unfounded. It was moved and seconded (Linscheid/Wahab) to close the case against Mr. Eblen based on allegations unfounded. The motion passed unanimously.

*2523 – Walter H. Schredl / OSBEELS*

Respondent Walter Schredl, PE, was a non-resident Oregon registrant selected to participate in an audit of his PDH units for the renewal period July 1, 2004 to June 30, 2006. Mr. Schredl experienced serious health problems during the audit period and was only able to provide 27.5 PDH units instead of the required 30. The Committee recommended the Board approve closing the case as allegations unfounded. It was moved and seconded (Linscheid/Butts) to close the case against Mr. Schredl based on allegations unfounded. The motion passed unanimously.

*2530 – Russell Karl / OSBEELS*

Respondent Russell Karl, PLS, was selected to participate in an audit of his PDH units for the renewal period July 1, 2005 to June 30, 2007. Mr. Karl had failed to respond to Board correspondence. During the investigation, investigators were told that Mr. Karl's current medical condition resulted in an inability to respond to Board inquiries and that Mr. Karl was no longer practicing. The County Surveyor where Mr. Karl did the majority of his work confirmed his condition. Therefore, the Committee recommended the Board approve closing the case as allegations unfounded. It was moved and seconded (Linscheid/Butts) to close the case against Mr. Karl based on allegations unfounded was moved and seconded. The motion passed unanimously.

*2539 – Larry Crowley / OSBEELS*

Respondent Larry Crowley, had engaged in the unlicensed practice of engineering on multiple occasions as he identified himself as a professional engineer and his business as Evergreen Geotechnical Engineering. The Committee determined to issue Mr. Crowley a Notice of Intent to assess a \$9,000 civil penalty for violations of ORS 672.007, ORS 672.020(1), ORS

672.045(2), and OAR 820-01000720(1), and to start proceedings in an appropriate circuit court to restrain Mr. Crowley's engineering activity in accordance with ORS 672.215.

Ms. Gilbert noted that the OSBEELS staff met with the Civil Recovery Division of the Assistant Attorney General's office and as a result there is more information for the Committee to consider before proceeding in this case. The case will be reviewed and discussed again during the April 8, 2010 LEC meeting.

*2542 – Douglas C. McHaney / OSBEELS*

Respondent Douglas C. McHaney, PE, was allegedly operating an office without a resident engineer in charge. The Committee determined to issue Mr. McHaney a Notice of Intent to assess a \$1,000 civil penalty for violating OAR 820-010-0720(1).

*2549 – Floyd Holcom / Hippenstiel*

Respondent Floyd Holcom, had engaged in the unlicensed practice of engineering by offering to perform professional services without a licensee when he bid on the Port of Tillamook Bay Railroad Restoration Project in March 2008. The registration for the professional engineer that Mr. Holcom used in preparing the bid, Michael Dubb 17189PE, was in exempt status at the time of the bid. The Committee determined to issue Mr. Holcom a Notice of Intent to assess a \$1,000 civil penalty for violating OAR 820-010-0720.

*2551 – William Warmack / OSBEELS*

Respondent William Warmack, was alleged to have engaged in the unlicensed practice of engineering when electrical drawings were posted to the Central Oregon Builder's Exchange with his organization's name on the drawings but were marked for bid use only. Mr. Linscheid reported that the investigation determined that Mr. Warmack did not place the documents on the Exchange and they were meant for his use only. It was moved and seconded (Linscheid/Tappert) to close the case against Mr. Warmack based on allegations unfounded. The motion passed unanimously.

*2552 – Linda Damon / Peter Allen*

Respondent Linda Damon, allegedly engaged in the unlicensed practice of land surveying when she distributed a business flyer listing property boundary marking as one of her services. The Committee determined to issue Ms. Damon a Notice of Intent to assess a \$1,000 civil penalty for violating ORS 672.025(1).

*2553 – William Walpole / OSBEELS*

Respondent William Walpole, engaged in the unlicensed practice of engineering when he created a business and listed his business on a Web site as Walpole Industrial Engineering, LLC and identified engineering as a service offered. The Committee determined to issue Mr. Walpole a Notice of Intent to assess a \$1,000 civil penalty for violating ORS 672.020(1).

*2554 – David H. Krumbein / Dwight French*

Respondent David Krumbein, PE/PLS/CWRE, failed to return a corrected Claim of Beneficial Use and Site Report to the Oregon Water Resources Department after repeated notices and had failed to cooperate with the Board. The Committee had determined to issue Mr. Krumbein a Notice of Intent to assess a \$2,000 civil penalty for violating OAR 820-020-0015(2),(8).

However, Board Investigator Jill Van reported that this case would be referred back to the Committee with new information.

*2555 – Robert J. Bayer / OSBEELS*

Respondent Robert Bayer, as President of JBR, allegedly was engaged in the unlicensed practice of engineering by advertising and/or offering to perform engineering services in its Oregon offices without employing a licensee. The Committee recommended postponing a review of this case for the next meeting and requested an Assistant Attorney General Opinion to provide more clarification.

*2556 – Pamela S. Hillstrom / Roger Keady*

Respondent Pamela S. Hillstrom, PE/CWRE, was alleged to be negligent in the practice of engineering when she performed a soil analysis during the 2003 construction of a single family residence. Prior to January 1, 2010, ORS 672.060 included professional engineers in the exemption for single-family residences in the application of ORS 672.002 through ORS 672.325. Effective January 1, 2010, professional engineers are no longer included in that exemption. The Committee recommended to close the case as the Board lacks jurisdiction, but to issue a reminder to Ms. Hillstrom that the exemption no longer applies to PEs effective January 1, 2010. It was moved and seconded (Linscheid/Butts) to close the case against Ms. Hillstrom based on allegations unfounded, with a reminder letter regarding the exemption change. The motion passed unanimously.

*2557 – Raymond Wetherholt / John Coffman*

Respondent Raymond Wetherholt, allegedly engaged in the unlicensed practice of engineering when he used his Washington State PE title in signing a roof damage evaluation for a duplex unit located in Oregon. It was noted that Mr. Wetherholt's work did not involve engineering work and that Mr. Wetherholt was a registered professional engineer in Washington, but not in Oregon at the time. The Committee recommended issuing Mr. Wetherholt a Letter of Concern to not use his PE title on work done in Oregon, unless registered in Oregon, and to refer information to the Oregon Construction Contractors Board (CCB) for consideration. It was moved and seconded (Linscheid/Wahab) to issue Mr. Wetherholt a letter of concern and refer information to the Oregon CCB. The motion passed unanimously.

*2574 – Jonathan Smith / Ed Butts*

Respondent Jonathan Smith, PE, allegedly used the registered professional engineer seal and modified the design plans of another engineer, thus posing a risk to public safety. The Committee recommended that new information presented by the complainant, Mr. Butts, be submitted to the Professional Reviewer for additional evaluation and report. Board Investigators are still waiting for a summary the additional complaint information from Mr. Butts.

*2579 – Jaime J. Lim / Carol Moeller*

Respondent Jaime Lim, PE, was allegedly not in responsible control and incompetent in the practice of engineering when he designed a non-exempt structure in Portland. The Committee noted that the allegations were pretty egregious. The Committee determined to issue Mr. Lim a Notice of Intent to Revoke Registration and to Assess a \$5,000 Civil Penalty for violating ORS 672.020(2); ORS 672.200(2),(4); OAR 820-010-0620(2); OAR 820-010-0621; OAR 820-020-0015(2),(10); and OAR 820-0020-0025(1).

Mr. Linscheid reported that the Committee reviewed the following items. There was no further discussion.

*Investigator Memorandum: Preliminary Evaluation of Luke Miller complaint*

The Committee determined that the complaint was outside the Board's jurisdiction and to not open a law enforcement case.

*Investigator Memorandum: Preliminary Evaluation of Tim Usher complaint*

The Committee determined that the complaint was outside the Board's jurisdiction and to not open a law enforcement case.

*Investigator Memorandum: Preliminary Evaluation of Joseph Bohinsky, PE, complaint*

The Committee determined that the Consent Order did not give rise to a level required under OAR 820-020-0015(6) to take action and recommended to not open a law enforcement case.

*Expert Reviewer Application – Steven Bjordahl, SE*

Mr. Linscheid reported that the Committee reviewed the application and recommended approval. It was moved and seconded (Linscheid/Tappert) to approve Mr. Bjordahl's application. The motion passed unanimously.

*Remove Approved Reviewer – Timothy N. Moore*

Mr. Linscheid reported that the Committee reviewed Mr. Moore's delinquent status, making him no longer qualified to practice engineering, and recommended removing Mr. Moore from the approved reviewer list. It was moved and seconded (Linscheid/Newstetter) to remove Mr. Moore from the approved reviewer list. The motion passed unanimously.

*2495 – Matthew Smith – Update*

Mr. Linscheid reported that the discussion between Smith's Attorney and the Assistant Attorney General was still pending, and asked the AAG for any updates. AAG Tucker-Davis, stated that she had not heard from Mr. Smith's attorney and would work with Board Investigator McCartt to have something arranged.

*2499 – George Cathey - non-compliance/failure to submit final maps*

Mr. Linscheid requested updated information with regard to Mr. Cathey in case no. 2499. Board Investigator Van reported that the two County Surveyors who submitted the original complaints against Mr. Cathey had filed new complaints noting that they still had not received the final survey maps in question in case no. 2499. In addition, Board Investigator Van reported that the OSBEELS received a new complaint from the Multnomah County Surveyor regarding two additional survey maps prepared by Mr. Cathey in 2007 that still have not been submitted as final maps. This constitutes a violation of Mr. Cathey's settlement agreement and therefore the case will go back to the Committee on April 8, 2010 for further action.

**Settlement Agreements**

See *Cases Subject to Collections & Cases Subject to Monitoring*

Information regarding law enforcement cases subject to collection and law enforcement cases subject to monitoring was provided in the packets. There was no further discussion.

## Case Status Report

Mr. Tappert reported that the Committee held a special meeting by teleconference on February 19, 2010, regarding Mr. Farr and case no. 2332. Due to Mr. Linscheid's excused absence, Mr. Tappert chaired the meeting. Mr. Tappert reminded the Board that the LEC had previously met in an informal conference with Mr. Farr and offered a settlement agreement to waive the civil penalty if Mr. Farr retired his license. At that time, Mr. Farr declined the offer and so the Board proceeded with hearing preparations. Subsequent to the informal conference, Mr. Farr's attorney contacted the AAG, Ms Tucker-Davis, and asked if the settlement agreement previously offered was still valid. The special meeting was held on February 19, 2010, to discuss the settlement offer to resolve the Notice of Intent to Revoke Registration against Mr. Farr. A motion to approve the settlement agreement for Mr. Farr to retire his professional engineer registration without civil penalty was moved and seconded (Tappert/Linscheid). In discussion, President Davis recommended that Board Investigator Wilkinson provide a copy of the professional reviewer report to the Douglas County Building Department. Mr. Hoffine asked if the Board had made any notification to Glide High School previously. President Davis reported that he'd requested Board Investigator Wilkinson to identify the concerns regarding the Glide High School structure and mail the report immediately to the Douglas County Building Department. He stated that that had been completed. President Davis noted that it was not the Board's place to go around the Building Department directly to the High School. Discussion continued about how the school would be made aware of the concerns. It was ultimately determined that it was the Douglas County Building Department's responsibility now and the Board's report is public record. President Davis reiterated that the Board would send the professional reviewer's report to the Building Department as an addendum to the notification sent previously. It was also determined that the Board would send the professional reviewer's report to the State Building Codes Division as well. A motion to send the professional reviewer's report to the Chief Building Inspector for the State of Oregon was moved and seconded (Butts/Seward). Both motions passed unanimously.

Upon review of the list of cases, there was no further discussion.

## EXTERNAL RELATIONS COMMITTEE

Ms. Kramer reported that the ERC met on February 12, 2010, to discuss the matters as contained in the Committee minutes. Additional discussion was held by the Board regarding the following matters:

### Oregon Examiner Articles

The following draft articles were presented for approval:

*Examination Requirements for Registration as a Structural Engineer - It was moved and seconded (Kramer/Newstetter) to approve the article as presented.* The motion passed unanimously.

*Overseas Examinations - It was moved and seconded (Kramer/Newstetter) to approve the article as presented.* The motion passed unanimously.

*Investigation and Enforcement* - It was moved and seconded (Wahab/Newstetter) to approve the article as presented. The motion passed unanimously.

*CWRE Information* - It was moved and seconded (Kramer/Newstetter) to approve the article as presented. The motion passed unanimously.

*Continuing Professional Development Audits* - It was moved and seconded (Kramer/Linscheid) to approve the article as presented. The motion passed unanimously.

*Attention CWREs* - It was moved and seconded (Kramer/Wahab) to approve the article as presented. The motion passed unanimously.

*SB143* - It was moved and seconded (Kramer/Newstetter) to approve the article as presented. The motion passed unanimously.

*Message from the President* - It was moved and seconded (Kramer/Seward) to approve the article as amended. The motion passed unanimously.

#### Chemeketa's Career Exploration Night

Ms. Kramer briefly stated that staff will be at Chemeketa Community College for Career Exploration Night. Additionally, the Committee would like the Finance Committee to discuss a budget for future exhibition costs and promotional items to promote registration.

#### Forms

The following forms were presented for approval:

*ADA Accommodation Request* - It was moved and seconded (Kramer/Newstetter) to approve the form as presented. The motion passed unanimously.

*Religious Accommodation Request* - It was moved and seconded (Kramer/Wahab) to approve the form as presented. The motion passed unanimously.

### **FINANCE COMMITTEE**

Ms. Newestter reported that the Finance Committee met on February 12, 2010, to discuss the matters as contained in the Committee minutes. However, a brief discussion was held by the Board regarding the lobbyist budget for the 2009 – 2011 biennium. It was moved and seconded (Kramer/Newstetter) to approve the additional expenditure of \$233.34. The motion passed unanimously.

#### *Finance Reports*

Members reviewed the Statement of Net Assets (Balance Sheet), Statement of Activities (Profit and Loss Statement), Profit and Loss Budget Overview, and Income and Expense graphs for the period of July 1, 2009 through December 31, 2009. This time period reflects the latest data received in bank statements for the 2009 – 2011 biennium. There was no further discussion.

### **EXAMINATIONS AND QUALIFICATIONS COMMITTEE**

Mr. Butts reported that the E&Q Committee met on February 12, 2010 to discuss the matters contained in the Committee minutes. Additional discussion was held by the Board regarding the following matters:

*Oregon Specific Examination Information*

Mr. Butts briefly summarized the discussion held by the Committee regarding the draft documents related to the Oregon Specific Examinations. It was moved and seconded (Linscheid/Tappert) to approve the documents as presented. The motion passed unanimously.

*Revisions to the Oregon Specific Land Surveying Syllabus*

Mr. Butts directed the attention of the members to the revised draft of the Oregon Specific Land Surveying Syllabus. After a brief discussion, it was moved and seconded (Butts/Tappert) to approve the syllabus as presented. The motion passed unanimously. The revised syllabus will be effective for the October 2010 examination administration.

Registration

*Comity Applications* – Mr. Butts directed the members’ attention to the list of 53 professional engineer applicants for registration by comity. Ms. Newstetter recused herself due to a conflict of interest regarding one of the applicants. It was moved and seconded (Butts/Kramer) to approve the list of 54 professional engineer applicants as presented. An extensive discussion was then held regarding applicants who have pending law enforcement cases with the Board. AAG Tucker-Davis informed the members of the possible routes that would handle these circumstances. One route would be to approve the application since all the requirements for registration are met. However, notification would be given to the applicant that this does not preclude further action taken against your registration as a result of the law enforcement case and investigation. The other route would be to hold off taking action on the approval of an application pending the outcome of the law enforcement case and investigation. Consideration was also taken related to the allegation made against the applicant. It was then moved and seconded (Tappert/Linscheid) for the Board to not act on future applications that have open law enforcement cases. The motion passed unanimously. Discussion then ensued regarding the prioritization of law enforcement cases. In this particular situation, it was noted that a short amount of time would need to be directed at the matter, unless there were underlying issues uncovered, and therefore, the LEC could review the case soon. A friendly amendment was then made to the original motion and accepted by Mr. Butts and Ms. Kramer to approve the list of 53 professional engineer applicants. The motion passed unanimously.

*1<sup>st</sup> Registration Applications* – Mr. Butts directed the members’ attention to the 12 applicants seeking 1<sup>st</sup> registration. It was moved and seconded (Butts/Tappert) to approve the 12 applicants as presented. The motion passed unanimously.

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

**PROFESSIONAL PRACTICES COMMITTEE**

Ms. Newstetter reported that the PPC met on February 12, 2010, to discuss the matters contained

in the Committee minutes. There was no further discussion.

#### *Standards of Land Surveying Practices Committee*

Mr. Linscheid reported that the Standards of Land Surveying Practices Committee met on February 12, 2010, and held a discussion as contained in the Committee minutes. He further reported that Bob Neathamer, Gary Johnston, and Charles Gibbs attended the meeting and participated in the discussion. Mr. Linscheid also reported that the Committee would like to request Mr. Neathamer, Mr. Johnston, and Mr. Gibbs to continue participating as public members of the Committee. It was moved and seconded (Linscheid/Newstetter) to approve the 3 individuals as members of the Committee. The motion passed unanimously.

### **RULES AND REGULATIONS COMMITTEE**

Mr. Seward reported that the R&R Committee met on February 12, 2010, to discuss the matters contained in the Committee minutes.

Action was taken by the Board on the following rules:

#### *OAR 820-001-0000 – Rule Changes*

It was moved and seconded (Seward/Linscheid) to approve the rulemaking process to amend OAR 820-001-0000 as presented. The motion passed unanimously.

#### *OAR 820-010-0212 – Applications for Registration as Professional Engineers (PE) Based on Examination, OAR 820-010-0213 – Applications for Registration as Professional Land Surveyors (PLS) Based on Examination, and OAR 820-010-0214 – Applications for Registration as Professional Photogrammetrists (RPP) Based on Examination*

It was moved and seconded (Seward/Tappert) to approve the rulemaking process to amend OAR 820-010-0212, 820-010-0213, and 820-010-0214 as presented. The motion passed unanimously.

#### *OAR 820-010-0215 – Forms of Applications*

It was moved and seconded (Seward/Linscheid) to approve the rulemaking process to amend OAR 820-010-0215 as presented. The motion passed unanimously.

#### *OAR 820-010-0305 – Fees*

It was moved and seconded (Seward/Linscheid) to approve the rulemaking process to amend OAR 820-010-0305 as presented. The motion passed unanimously.

#### *OAR 820-010-0470 – Review of Examinations*

It was moved and seconded (Seward/Linscheid) to approve the rulemaking process to amend OAR 820-010-0470 as presented. The motion passed unanimously.

#### *OAR 820-015-0026 – Failure to Comply with Continuing Professional Development Requirements*

It was moved and seconded (Seward/Linscheid) to approve the rulemaking process to amend OAR 820-015-0026 as presented. The motion passed unanimously.

#### *OAR 820-010-0530 – Active United States Military Registrants*

It was moved and seconded (Seward/Linscheid) to approve the rulemaking process to adopt OAR 820-010-0530 as presented. The motion passed unanimously.

**ADJOURN**

The meeting was adjourned at 2:08 p.m.

**NEXT MEETINGS**

Next Board Meeting:

May 11, 2010

Next Committee Meetings:

LAW ENFORCEMENT:

Thursday, April 8<sup>th</sup> at 8:00 a.m.

RULES & REGULATIONS:

Friday, April 9<sup>th</sup> at 8:00 a.m.

EXAMINATIONS & QUALIFICATIONS:

Friday, April 9<sup>th</sup> at 9:00 a.m.

FINANCE:

Friday, April 9<sup>th</sup> at 11:00 a.m.

Standards of Practice for Land Surveying  
(Subcommittee)

Friday, April 9<sup>th</sup> at 12:00 p.m.

EXTERNAL RELATIONS:

Friday, April 9<sup>th</sup> at 1:00 p.m.

PROFESSIONAL PRACTICES:

Friday, April 9<sup>th</sup> at 2:00 p.m.