



Oregon

**State Board of Examiners for
Engineering & Land Surveying**

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Minutes of Meeting

November 12, 2008

CALL TO ORDER

President Laszlo 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:

Susanna Laszlo

Edward Butts

Grant Davis

Ken Hoffine

Mari Kramer

Dan Linscheid

Carl Tappert

Amin Wahab

Susan Newstetter (excused absence)

John Seward (excused absence)

Visitors Present:

Gary Anderson, PLS, Professional Land Surveyors of Oregon Liaison

Jim Schwager, PE, Portland Fire & Rescue

Ron Singh, P.L.S., ODOT Chief Surveyor

Others Present:

Mari Lopez, OSBEELS Executive Secretary

Jenn Gilbert, OSBEELS Executive Assistant

Joanna Tucker-Davis, Assistant Attorney General

Katharine Lozano, Assistant Attorney General

APPROVAL OF AGENDA

Mr. Butts requested to add Item E. PLS Letter to the Examinations and Qualifications Committee portion of the Agenda. It was moved and seconded (Kramer/Butts) to approve the agenda as amended. The motion passed unanimously.

APPROVAL OF MINUTES

President Laszlo noted a few minor revisions to the minutes of the regular meeting held on September 9, 2008. It was moved and seconded (Linscheid/Davis) to approve the minutes of the September 9, 2008 Board Meeting, as amended. The motion passed unanimously.

PUBLIC INPUT

President Laszlo welcomed the guests and requested them to introduce themselves. Gary Anderson, PLS, introduced himself as a representative from the Professional Land Surveyors of Oregon (PLSO). Ron Singh, P.L.S., Chief Surveyor, introduced himself and stated that he was in attendance on behalf of questions from the Oregon Department of Transportation (ODOT). He stated that ODOT has posted a Request for Qualifications for work related to the practice of LiDAR and is requesting that further discussion be held during the next Professional Practices Committee (PPC) meeting. Mr. Singh believed that additional consideration should be given on if the practice of LiDAR is considered the practice of photogrammetric mapping as defined in the Oregon Revised Statute (ORS) 672.002. Staff was directed to contact Mr. Singh with additional details of the December PPC meeting.

EXECUTIVE ASSISTANT'S REPORT

Committee Activities

Ms. Gilbert reported that the Examinations and Qualifications (E&Q), External Relations (ERC), Finance, Law Enforcement (LEC), PPC, and Rules and Regulations (R&R) Committees each met during the month of October. The Committee minutes were included in the packets.

Administrative Activities

Oregon Specific Examinations/ELSES

Ms. Gilbert noted that examinations took place at the Lane County Fairgrounds in Eugene on October 24th and 25th. On behalf of the Board, Amin Wahab was the supervising proctor for the Washington Structural III examination and Bob Neathamer was the supervising proctor for the four-hour Oregon Specific Land Surveying examination. She further informed the members that she was present to assist with the examinations along with Matt Bryan, Jennifer Carmack, Shantelle Meyer, and Amelia Volker.

Ms. Gilbert reported that there were 96 Fundamentals of Engineering examination examinees and 14 Professional Engineering examination examinees considered as "No Shows" for the ELSES administered exams. Additionally, the numbers of "No Shows" for the Oregon Specific examination were: 1 examinee for the 4-hour Oregon Specific Land Surveying examination and 4 examinees for the Washington Structural III examination.

SIBA

In the absence of Ms. Lopez, Ms. Gilbert reported her attendance at a meeting of the Semi-independent Board Administrators (SIBA) meeting on September 23, 2008. Matters discussed relevant to OSBEELS were; Public Employees' Benefit Board (PEBB) Open Enrollment, Business Continuity Plans, and Legislative Reports and Matters.

The discussion of Legislative Reports and Matters included retaining the services of a lobbyist to focus on the interest of semi-independency. Along with the option to participate with the other Semi-independent Boards in obtaining the services of a lobbyist, the members considered the legality of such an endeavor and the financial obligations. The lobbyist would alert the Boards of possible legislative action related to semi-independence. Pending the scope and responsibilities outlined in the contract, it was moved and seconded (Linscheid/Butts) to authorize the Executive Secretary to enter into a contract to obtain the services of a lobbyist with the other Semi-independent Board. The OSBEELS contribution is not to exceed \$1,500.00. The motion passed unanimously.

OSBEELS Legislative Concept 319

Ms. Gilbert reported that the final draft of OSBEELS legislative concept (LC) 319 was received from Legislative Counsel. She summarized that LC 319 contained housekeeping revisions related to the inclusion of the practice of photogrammetry as a result of the 2005 Senate Bill (SB) 55, eliminates the minimum age requirement to obtain retired status and repeals language regarding non-residency and the issuance of a replacement certificate. However, the final draft of LC 321 has yet to be received.

Oregon State Classification and Compensation Redesign

In the absence of Ms. Lopez, Ms. Gilbert reported her attendance at a meeting on October 30, 2008 regarding the redesign of the current classification and compensation for Oregon State employees. A power point presentation was provided in the packets for review. New systems are anticipated to be implemented after June 2011.

Assigned Assistant Attorney General

Ms. Gilbert briefly noted that Katharine Lozano was assigned as the OSBEELS back-up legal counsel to Assistant Attorney General (AAG) Joanna Tucker-Davis. AAG Tucker-Davis and AAG Lozano will share the duties assigned by the Board. AAG Tucker-Davis announced that she is expecting a baby in March. Congratulations AAG Tucker-Davis!

Board Vacancies

Ms. Gilbert briefly stated that the Board has yet to receive applications to fill the engineer position that was vacated by George Gross. Nancy Goss-Duran at the Governor's Office has stated that the applications received for the vacant position continue to be from professional engineers in the civil discipline.

Staffing

Ms. Gilbert reported that Lauren Olson submitted her resignation from OSBEELS employment on September 25, 2008. In addition, the Investigator position is still open and information is available on the Board's Web site.

PRESIDENT'S REPORT

President Laszlo reported that she attended the NCEES Annual Meeting held in Minneapolis, MN along with Mr. Wahab and Mr. Linscheid. She stated that one of the highlights of the

meeting was a resolution that Mr. Butts participated, in cooperation with the Western and Southern Zones. The Zones came together on an amended resolution requesting the NCEES President to charge a committee or task force to develop a written analysis of the potential impact of the proposed B+30. Other resolutions considered included the financing of airline tickets for past NCEES Presidents and guests to attend meetings, an 8-hour alternative examination proposed by the structural examination task force, and general revisions to the NCEES Constitutional language.

President Laszlo also reported that past Board Member, Ron Stuntzner sent her a notice on a professional wetlands science meeting, in addition to a notification on Senate Bill (SB) 544. SB 544 proposes a certification program for wetland scientists and to investigate the feasibility of establishing an Oregon certification program for professional wetland scientists under certain requirements. This is an issue that may impact the practice of engineering. Therefore, President Laszlo requested that the R&R Committee track developing bills.

President Laszlo took the Board into Executive Session as provided by ORS 192.660 (2)(i) to discuss the evaluation of the Executive Secretary.

Upon returning to open session, it was noted that no action was taken during Executive Session.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Ms. Kramer reported that the Examinations and Qualifications Committee met on October 9, 2008, to discuss the following matters:

Inactive Status Request

Ms. Kramer summarized the discussion held by the Committee regarding a request from an individual who would like to place their registration in the inactive status due to a serious leg fracture. After reviewing the documentation submitted, she stated that the Committee determined the injury was not a debilitating physical injury and did not qualify per the Oregon Administrative Rule (OAR) 820-010-0520(3)(b) & (c).

Four-hour Oregon Specific Land Surveying Examination Proctor Request

Ms. Kramer briefly stated that the Committee approved a request from Peter Brands to sit for the four-hour Oregon Specific Land Surveying Examination in Washington State. However, she noted that the Board has determined to discontinue the proctoring of Oregon Specific examinations outside the State of Oregon, but the rule may not be in effect until after the Rules Hearing.

Fundamentals of Engineering Examination Results Request

Ms. Kramer reported that the Committee denied a request from Norman Buccola regarding his score for the April 2008 Fundamentals of Engineering (FE) Examination. She summarized that Mr. Buccola was admitted to the April 2008 FE Examination administration based on OAR 820-010-0225(2) & (3)(d). However, since his degree has not been conferred by the registrar's

office, he requested the Committee to release the results of his April 2008 FE Examination scores based on OAR 820-010-0225(3)(f).

Exempt Status Consideration

Ms. Kramer noted that the Committee reviewed and briefly discussed an email submitted by Will Pong regarding possible accommodations for registrants previously in the “exempt” status. Mr. Pong states that he understands the reasons for the Board eliminating the “exempt” status, but requested that provisions be made for registrants who are out-of-state or presently occupied in a capacity other than engineering. She stated that staff was directed to reaffirm the options for Mr. Pong outlined in OAR 820-010-0510 and 820-010-0520 but no further action was taken.

Appeal to Notice of Intent to Deny Admission

Ms. Kramer reported that the Committee approved a request from Justin Elliot to forward his application and fee for the October 2008 professional civil engineering examination to the next examination administration in April 2009. She summarized that Mr. Elliot was denied admission to the October 2008 civil examination administration since the documentation initially submitted did not meet OAR 820-010-0225(3)(d). He was also informed that he may be eligible for the April 2009 examination upon gaining an additional six months of experience as determined during the August 22, 2008 Committee meeting.

Professional Development Hour (PDH) Extension Request

Ms. Kramer stated that the Committee denied a request for an extension to complete the required professional development hours (PDH). The request was made by Janet Failing on behalf of Dan McCrea. She stated that Mr. McCrea did not engage in the practice of engineering during a portion of his renewal period due to a medical condition. This period included 21 months of time in which he would have had a chance to acquire PDH. Ms. Kramer reported that Mr. McCrea was informed he may complete the PDH as required for renewal in the active status or submit a request and the appropriate documentation to have his registration placed in the inactive status per OAR 820-010-0520.

Continuing Professional Development Audit Grace Period Request

Ms. Kramer reported that the Committee approved a request for a grace period in accordance with OAR 820-015-0026(3) from John Wells and memorandum from the OSBEELS Regulation Department regarding his request. Mr. Wells was a participant in the audit of documentation to support the PDH units claimed as a condition of the last biennial renewal period.

Revise Take-home Examination

Ms. Kramer directed the members attention to the revised take-home examination. She stated that comments received from AAG Joanna Tucker-Davis and the Board members were utilized to prepare the draft. It was moved and seconded (Kramer/Linscheid) to approve the revised take-home examination. The motion passed unanimously.

PLSO Response

The Committee reviewed the response to Professional Land Surveyors of Oregon, Board Chairman Ed Henricks. The response was submitted by Bob Neathamer on behalf of the volunteers who develop, grade, and score four-hour Oregon Specific Land Surveying

examination. After a brief discussion, the Committee would prefer Mr. Neathamer to delete a sentence prior to sending the response. However, the Committee was appreciative of the time Mr. Neathamer spent in composing the response for the Board. Staff will correspond with Mr. Neathamer accordingly.

Review of Applications

Comity Application

Ms. Kramer reported that the Committee reviewed an application for registration as a professional mechanical engineer by comity from Neal Pickus. The Committee recommended Mr. Pickus' professional engineer application for approval by the Board. Mr. Pickus submitted a request to waive the supervisory PE reference.

1st Registration Applications

Ms. Kramer reported that the Committee reviewed an application for 1st registration as a professional civil engineer from Masataka Fukumitsu. The Committee recommended Mr. Fukumitsu's application for approval by the Board. Mr. Fukumitsu does not hold a current registration but successfully passed the FE and PE examination required by the Board, in addition to gaining the required experience and completing the required education.

Licensure

Comity Applications – Ms. Kramer directed the members' attention to the list of 79 professional engineer applicants and the additional list of 3 professional land surveying applicants for licensure by Comity. It was moved and seconded (Kramer/Davis) to approve the list of 79 professional engineer and the additional list of 3 professional land surveying applicants as presented. The motion passed unanimously.

First Registration Applications – Ms. Kramer directed the members' attention to the 4 applicants seeking registration based on examination in another jurisdiction or by NCEES. It was moved and seconded (Kramer/Butts) to approve the 4 applicants as presented. The motion passed unanimously.

Applications by Prior Practice – Ms. Kramer directed the members' attention to the 7 applicants seeking Geotechnical registration by prior practice. It was moved and seconded (Kramer/Butts) to approve the 7 applicants as presented. The motion passed unanimously.

EXTERNAL RELATIONS COMMITTEE

Ms. Kramer reported that the External Relations Committee met on October 9, 2008, to discuss the following matters:

Fall 2008 Oregon Examiner

Ms. Kramer reported that the Committee revisited the *Electrical Plans for Complex Structures* article. To alleviate any confusion, the OAR 918-311-0040 that is regulated by the Department of Consumer and Business Services, Building Codes Division (BCD) was included. Upon approval by Mr. Butts due to his additional qualifications in the subject, the *Electrical Plans for Complex Structures* article was submitted for the *Fall 2008 Oregon Examiner*. Ms. Kramer also

noted that minor revisions were made to the *Appointment by Governor Kulongoski, Digital Signatures, Building Code Division Temporary Rule, Law Enforcement Frequently Asked Questions* and the *Importance of References* articles.

Web site

Ms. Meyer provided a brief presentation of the new Web site to the members. It was noted that the staff may wish to include additional related links that would provide additional convenience to the public.

Outreach

Ms. Kramer stated that The Career as a Land Surveyor and Oregon Building Congress kits were briefly reviewed and discussed by the Committee. She stated that staff will prepare a draft article for the *Winter 2009 Oregon Examiner* of the speaker kits available.

FINANCIAL REPORT

Mr. Tappert reported that the Finance Committee met on October 9, 2008, to discuss the following matters:

Travel Policy

Mr. Tappert reported that the Committee reviewed the draft Travel Policy for Board members. It was moved and seconded (Tappert/Linscheid) to approve the Travel Policy for Board members as presented. The motion passed unanimously.

Update on QuickBooks Pro 2008

Mr. Tappert reported on the migration to the new accounting software, QuickBooks Pro 2008. He also stated that the information for the 2009 – 2011 budget should be available for review by the Committee during the February 2009 meeting.

Additionally, Mr. Tappert noted that the current financial information was provided for review. There were no further comments.

LAW ENFORCEMENT COMMITTEE

Mr. Linscheid reported that the Law Enforcement Committee met on October 10, 2008, to discuss the following matters:

Informal Conferences

2431 – Maud de Bel

Mr. Linscheid reported that the Committee scheduled an informal conference with Maud de Bel, PE, to discuss a Notice of Intent to Assess a \$1,000 Civil Penalty (NOI) for the unlicensed practice of engineering. However, the Committee lacked a quorum, so the available members conducted an informational meeting with Ms. de Bel. Mr. Linscheid summarized the discussion held between Ms. de Bel and the Committee regarding her understanding of the American engineering registration laws and the process of her obtaining an Oregon registration on January 10, 2006. He also reported that other than the position title on the report, Ms. de Bel did not

represent herself as an engineer to the City of Prineville. Furthermore, BacGen and Ace Consultants have since worked together with the City of Prineville to implement some of BacGen's recommendations for waste water treatment. Therefore, Mr. Linscheid stated that the Committee observed that Ms. de Bel took immediate steps to become registered with the Board once informed of the registration requirements. It was moved and seconded (Linscheid/Butts) to withdraw the NOI and dismiss the case against de Bel as compliance met. The motion passed unanimously.

2476 – Bruce D. Goldson

Mr. Linscheid reported that the Committee also scheduled an informal conference with Bruce Goldson, PE, PLS, to discuss a Notice of Intent to Assess a \$1,000 Civil Penalty for a right of entry violation. However, the Committee lacked a quorum, so the available members conducted an informational meeting with Mr. Goldson. Mr. Linscheid summarized the discussion held between Mr. Goldson and the Committee. He stated that Mr. Goldson asserted that he was the wrong person to respond to the NOI because other surveyors in his office supervise field crews. While he acted as the project manager and engineer, Mr. Goldson stated that he was not in responsible charge of the survey. Rather, his chief of surveys was responsible for field crews. Mr. Goldson also submitted to the Committee the filed map of survey showing the seal and signature of another professional surveyor he employs. However, the alleged violation occurred prior to that person taking control of the survey. In response to the allegation, Mr. Goldson claimed that the client contacted the complainant, which was shown by an email he provided to the Committee. Mr. Linscheid further reported that the Committee discussed that the seal and signature represent the registrant accepting responsibility for the map of survey, but in this particular case, the person who sealed the filed map was not on the project at the time of the alleged violation. Due to the new evidence submitted by Mr. Goldson, Mr. Linscheid stated that further investigation will be conducted.

2475 – Jerry Maris

Mr. Linscheid reported that an informal conference was held with Jerry Maris, PLS, to discuss a Notice of Intent to Assess a Civil Penalty of \$1,000 for a 45-day violation. Mr. Linscheid also reported that the Committee discussed a potential conflict in that he and Mr. Maris had a business relationship that ended about 20 years ago. However, the Committee determined there was no current conflict of interest between Mr. Linscheid and Mr. Maris as the respondent. Nevertheless, the complainant alleged that Mr. Maris set property monuments, but failed to file a record of survey within 45 days. Mr. Maris admitted the violation in light of extenuating circumstances, including a center of section dispute, legal action involving the land owners, and his stolen survey vehicle. He agreed that he should have requested the 180-day extension prior to the end of the 45-day filing requirement. It was moved and seconded (Linscheid/Butts) to send Mr. Maris a letter of concern regarding the 45-day requirement. The motion passed unanimously.

2474 – Darryl Anderson

Mr. Linscheid reported that the Committee held an informal conference with Darryl Anderson PE, PLS, CWRE, to discuss a Notice of Intent to Assess a Civil Penalty of \$1,000 for a right of entry violation. The complainants alleged that Mr. Anderson conducted an unauthorized survey of their property and failed to provide notice of right of entry. Mr. Linscheid summarized the

investigation to revealed that Mr. Anderson surveyed the adjoining property and set two property monuments common to the complainants' properties. As a result, the Committee examined the right of entry allegation and the problems associated with land surveyors providing notice in remote areas, such as Christmas Valley, where changes in property lines and in ownership are often unknown.

Mr. Linscheid also reported that the discussion held with Mr. Anderson focused on the requirements of the ORS 672.047(4). It was noted that paragraph four requires notice prior to entry upon a property or prior to establishing any permanent survey monument. The Committee interpreted paragraph four to include providing notice to adjoining land owners when setting a common boundary monument. Mr. Anderson stated that typically, there are no places in rural, undeveloped areas to post the required notice, so he changed his business practice by sending notifications to land owners by mail, many of whom are absentee owners. Otherwise, there is no other way to post notice. He also commented that the ORS 672.047 does not provide a remedy for when access is denied.

Mr. Linscheid informed the members that the Committee accepted Mr. Anderson's statement that he did not trespass on the complainant properties to set the common boundary monuments. The Committee also accepted his concerns about providing written notice "in person" to absentee land owners in rural areas. Since the Committee determined that each case of right of entry is unique to the circumstances and no property damage occurred as a result of the Anderson survey, it was moved and seconded (Linscheid/Davis) to send Mr. Anderson a letter of concern regarding the right of entry notice. The motion passed unanimously.

2406 – Donald Rondema

Mr. Linscheid reported that the LEC met with Donald Rondema, PE, in an informal conference on October 10, 2008, to discuss a Notice of Intent to Revoke Registration and to Assess a \$1,000 Civil Penalty. Mr. Linscheid noted that this is the Astoria landslide case that has been going on for some time and briefly summarized that Mr. Rondema is a geotechnical engineer who designed a retaining wall that was involved in an Astoria land slide. It was alleged that Mr. Rondema failed to follow the Rules of Professional Conduct, or exercise a standard of care. Mr. Linscheid further reported that the Committee had a professional reviewer, Tim Blackwood, P.E., evaluate the evidence and prepare a report for the Committee. The Committee and Mr. Rondema entered into a settlement agreement that was provided in the Board packet. The settlement agreement included that Mr. Rondema committed negligent engineering in his reporting relating to the Keystone retaining wall and would be assessed a \$500 civil penalty. It was moved and seconded (Linscheid/Davis) that the Board President sign the settlement agreement with Mr. Rondema. The motion passed unanimously.

Cases Reviewed

2450 – Bruce Goldson / Brian Lewis

Mr. Linscheid reported that Bruce Goldson with Compass Engineering allegedly issued a bad drainage report. The investigation revealed that a number of circumstances lead to problems. However, evidence of drainage problems was not discovered during the investigation. In addition, the complaint was withdrawn by the original complainant. He further noted that there

was not enough evidence to support the allegations. It was moved and seconded (Linscheid/Butts) to close the case as allegations unfounded. The motion passed unanimously.

2453 – Marcela Alcantar / Elizabeth Moorhead

Mr. Linscheid reported that the complainant Elisabeth Moorhead alleged that the respondent Marcela Alcantar, EIT, misrepresented herself as a professional engineer in two news articles. The investigation revealed that the articles' authors misrepresented her qualifications, so the allegations were unfounded. However, evidence obtained in the course of investigation showed that Ms. Alcantar submitted an application to the Oregon Office of Minority, Women, and Emerging Small Business (OMWESB) offering to perform engineering services without employing a professional engineer. He reported that the Committee directed staff to issue Ms. Alcantar a Notice of Intent to Assess a \$1,000 Civil Penalty for the unlicensed offering of engineering services violating OAR 820-010-0720.

2464 – Gordon Snyder / OSBEELS

Mr. Linscheid reported that Gordon Snyder works for T-Mobile. Mr. Snyder is not registered with the Board and was holding out as an "RF Engineer" in a T-Mobile permit application to the City of Springfield to construct a wireless communications facility. He stated that T-Mobile remains firm in their position that the work is exempt under the ORS 672.060(6) "industrial" exception. Mr. Linscheid reported that the Committee has discussed this issue over a couple of meetings and directed staff to issue a NOI for \$3,000, however, Mr. Butts disagrees with the decision. It was also noted that in reading the case summary, the Committee made the connection that T-Mobile was not under the industrial exemption because they submitted plans for approval to the City. The permit application put the question into the public realm and removed the industrial exception. In a related matter, the PPC discussed a similar issue, not with cell towers, but with private utilities placing gas mains in the City of Hillsboro. This issue appeared to be a similar scenario because a utility was designing a system that serves the public and they own and operate the facilities. However, it was also noted that a utility not offering design services to the public would fall under the exception. It was then stated that the City of Springfield required a registered engineer to perform the work, which is different from the City of Hillsboro issue. Mr. Snyder responded to the City of Springfield requirement by representing himself as "RF Engineer." T-Mobile had another week to reply to the NOI. It was further noted that the utilities in the Hillsboro issue had engineers and land surveyors on staff whereas T-Mobile did not. The Hillsboro issue involved whether they had to have their drawings stamped and sealed. This case involves how someone is representing themselves to the public because the City of Springfield required an engineer's statement under Springfield Development Code 32.130(3)(a). As a result, it does not fall under the industrial exemption. Further discussion will be held during the December meeting.

2467 – Marc Holcomb, Sr. / N. Shannon Hanawalt

Mr. Linscheid reported that the Committee approved issuing Marc Holcomb, PLS, CWRE, a Notice of Intent to Revoke Registration and to Assess a \$3,000 Civil Penalty. Mr. Holcomb responded to the allegations, but failed to request a hearing and did not respond to investigator inquiries. As a result, the Committee recommended that a Final Order by Default be issued against Mr. Holcomb. It was moved and seconded (Linscheid/Davis) that the Board President

sign the Final Order by Default to Revoke Registration and to Assess a \$3,00 Civil Penalty. The motion passed unanimously.

2468 – Leonard L. Gilson / William & Treesah Lewandowski

Mr. Linscheid reported that the allegations against Leonard Gilson, PLS, PE, CWRE, involved failing to submit a map of survey with 45-days of setting monuments and a right of entry violation. However, the investigation found that the map was filed in a timely manner. No evidence of a right of entry violation was found given that the complainant admitted verbal notification. The Committee recommended closing the case as allegations unfounded. It was moved and seconded (Linscheid/Davis) to close the case as allegations unfounded. The motion passed unanimously.

2502 – Kerry Bradshaw / Roger Roberts

Mr. Linscheid reported that the complainant Roger Roberts, PLS, submitted documents showing thirteen allegations where the respondent Kerry Bradshaw, PLS, failed to file a map of survey within 45-days of setting monuments, failed to return two corrected maps of survey within 30-days, failed to properly seal and/or sign five final documents, and improperly prepared a boundary description. The investigation found that four allegations were unfounded or unrelated. The Committee directed staff to issue Bradshaw a Notice of Intent to Revoke Registration and Assess a \$9,000 civil penalty violating the ORS 209.250(1) and (4)(b), the ORS 672.025(2), the ORS 672.200(2) and (4), the OAR 820-010-0621(1) and (2), the OAR 820-020-0015(2) and (10), the OAR 820-020-0025(1), and the OAR 820-030-0060.

2536 – Kailong Luo / OSBEELS

Mr. Linscheid reported that the allegations against Kailong Luo, PE, involved engineering while on an exempt status. However, Mr. Luo has continued to renew his registration and submit continuing professional development documents as required. No evidence was found that Mr. Luo requested exempt status. It was moved and seconded (Linscheid/Davis) to close the case as allegations unfounded. The motion passed unanimously.

New Business

Mr. Linscheid reported that due to time constraints the LEC delayed discussion of four agenda items. However, the following LEC agenda items were discussed:

Oregon Association of County Surveyors and Engineers presentation on November 19, 2008

Mr. Linscheid reported that the Committee discussed an invitation from the Oregon Association of County Surveyors and Engineers (OACES) to present the Board's law enforcement process to its members. The Committee approved the request for Board investigators to attend the OACES meeting scheduled for the Hilton Hotel, Eugene, OR, from 1:30 p.m. to 2:45 p.m., on November 19, 2008. Mr. Linscheid will moderate the session.

Scott Warner email: Inquiry regarding PDH training and surveyors offering boundary by agreement

Mr. Linscheid reported that the Committee briefly discussed an inquiry from Scott Warner regarding professional development hour (PDH) training for surveyors to offer boundary

resolutions by agreement. The Committee decided to direct this inquiry to the December PPC meeting.

K. Robert Ezell: Submission of complaint

Mr. Linscheid reported that the Committee discussed a preliminary review of a complaint from K. Robert Ezell, PLS, regarding Roger Roberts, PLS. Mr. Ezell challenged an opinion Mr. Roberts offered the Board on August 20, 2000. Mr. Robert's opinion was solicited for law enforcement case #2060, which was closed against Mr. Ezell as compliance met on March 11, 2003. The current allegations against Mr. Roberts were similar to ones Mr. Ezell made on March 10, 2008. On April 8, 2008, the Committee determined not to reopen case #2060 or to open a new case. Regarding the current allegations, Mr. Linscheid reported that the Committee found that Mr. Ezell provided no new evidence and determined not to open a new case. Staff was directed to respond accordingly.

Unfinished Business

Discussion regarding end of suspension for 2504 – Tatsuo Kawase / OSBEELS

Mr. Linscheid reported that Tatsuo Kawase, PE, was audited for continuing professional development hours and failed to submit the required documentation. In reviewing Board rules, there was no avenue for a suspended registrant to reactivate registration, so a settlement agreement that allows reactivation has been prepared for Mr. Kawase.

LEC Cases Subject to Monitoring and LEC Cases Subject to Collections:

Mr. Linscheid reported that the LEC reviewed the LEC Cases Subject to Monitoring, the LEC Cases Subject to Collections, and the Case Status Report.

The Board briefly reviewed the Cases Subject to Collections, Cases Subject to Monitoring, and Case Status. There was no further action.

PROFESSIONAL PRACTICES COMMITTEE

Mr. Tappert reported that the Professional Practices Committee met on October 9, 2008, to discuss the following matters:

Professional Requirements

Mr. Tappert reported that the Committee discussed an email from Russ Lawrence regarding river restoration work. Mr. Lawrence stated that he performs work in river restoration and believes it is being interpreted as the scope of work for a licensed geologist. He also attached a paper titled Watershed Assessment, River Restoration, and the Geoscience Profession in Oregon. After reviewing the attachment and discussing the email, the Committee noted that the ORS 672.545(3)(a), does not prevent a professional engineer from performing geology within the scope of the practice of engineering. Furthermore, the Committee noted that the author recognized the “inherent overlap between the Earth-resource professions (e.g. geology, engineering, hydrology),...” on page 5 of the paper. Staff was directed to respond accordingly.

NPDES Construction Stormwater General Permit No. 1200-C

Mr. Tappert reported that the Committee received a response from the Department of Environmental Quality (DEQ) regarding the 1200-C General Permit for preparing an Erosion and Sediment Control Plan. No further action was taken.

Right of Entry Statutes

Mr. Tappert summarized the discussion held by the Committee regarding the right of entry statutes for private surveyors versus those employed by and acting under the authority of the County Surveyor. A brief discussion was held regarding ORS 209.990 - **Penalties; civil remedies**, since it does not appear to apply to violations of ORS 209.015. It was determined that without a specific scenario and the extent of resources that may be expended for legal research by the AAG, a more comprehensive answer could be obtained at the discretion of the Board upon receipt of a specific scenario.

Practice of Fire Protection

The Board reviewed the outstanding questions and answers from the previous Committee meeting in October, specifically those submitted by Mr. Schwager. As discussed during the September Board meeting, the Position Statement dated July 28, 2008 and approved by the National Institute for Certification in Engineering Technologies (NICET) Board of Governors, the National Society of Professional Engineers (NSPE) Board of Directors, and the Society of Fire Protection Engineers (SFPE) Board of Directors was adopted by the Board as being in substantial compliance with the existing laws and rules regarding the practice of fire protection systems. Mr. Schwager further inquired about pre-engineered systems and if they require the seal of an engineer. The Board responded that the design of the pre-engineered system does not require the seal of an engineer, however, the project design professional is responsible for the overall applicability of the pre-engineered system to the project design. He also inquired if the system design for fire protection devices that are added to an existing system that extends the system into areas not previously protected would require sealed design plans. The Board responded that the design of the system would require a professional to ensure the system was adequate. Additionally, changes in hazard classifications or a change in occupancy would require a design professional. Additionally, it was noted that the comments submitted by Mr. Schwager related to the Reference Manual for Building Officials will be addressed in the next edition.

Staff also informed the Board that the next meeting of the Electrical and Elevator Board would be held on November 20, 2008 meeting. After a brief discussion, it was determined that Mr. Butts, Mr. Davis, and Mr. Tappert would work cooperatively on a position to present at the meeting. Staff will email the timeline and duties as discussed and agreed upon. There was no further discussion.

RULES AND REGULATIONS COMMITTEE

Mr. Tappert reported that the Rules and Regulations Committee met on October 9, 2008, to discuss the following matters:

OAR 820-010-0624 – Standard Drawings

Mr. Tappert summarized the discussion held by the Committee regarding the language presented to define a standard drawing, or standard detail, as discussed during the August 7, 2008 meeting of the LEC. Questions were raised whether a rule was necessary to clarify this issue. After a brief discussion, it was determined that such a rule is not necessary. There was no further action.

OAR 820-030-0060 – Filing Time and Place

Mr. Tappert reported that the Committee recommends approving amendments to OAR 820-030-0060 – Filing Time and Place. He stated that the proposed language will provide an exact definition of when the 45-day limit to file a complete record would commence. It was moved and seconded (Tappert/Kramer) to begin the rulemaking process. The motion passed unanimously.

OAR 820-040-0005 – Definitions

A draft rule was presented to the Committee that includes a draft definition of the height of a structure to assist in the interpretation of the Oregon Revised Statute (ORS) 672.107(1)(a)(D). As discussed during the August 4, 2008 meeting of the Professional Practices Committee (PPC), the ORS 672.107 contains language that requires a structural engineer for a building customarily occupied by human beings that are more than four stories or 45 feet about average ground level. After review and discussion, the Committee believed further input from Grant Davis, with his expertise in structural engineering, would be beneficial prior to making any recommendations. Further discussion will be held during the December meeting.

Rulemaking Hearing

Mr. Tappert reported that a Rulemaking Hearing was held at 1:30 p.m. in the Conference Room of the Board office. There were no individuals in attendance to present oral comments and no written comments were received.

It was moved and seconded (Tappert/Butts) to adopt OAR 820-010-0209 – Applications for Certification as a Water Right Examiner. The motion passed unanimously.

It was moved and seconded (Tappert/Linscheid) to adopt OAR 820-010-0212 – Applications for Registration as Professional Engineers (PE) Based on Examination. The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to adopt OAR 820-010-0213 – Applications for Registration as Professional Land Surveyors (PLS) Based on Examination. The motion passed unanimously.

It was moved and seconded (Tappert/Wahab) to adopt OAR 820-010-0214 – Applications for Registration as Professional Photogrammetrists (RPP) Based on Examination. The motion passed unanimously.

It was moved and seconded (Tappert/Linscheid) to adopt OAR 820-010-0442 – Application Deadlines. The motion passed unanimously.

It was moved and seconded (Tappert/Wahab) to adopt OAR 820-010-0443 – Requests for Reasonable Accommodations for Oregon State Specific Examinations. The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to adopt OAR 820-010-0444 – Proctoring of Examinations. The motion passed unanimously.

It was moved and seconded (Tappert/Wahab) to adopt OAR 820-010-0505 – Biennial Renewal of Registration or Certification. The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to amend OAR 820-010-0010 – Definitions. The motion passed unanimously.

It was moved and seconded (Tappert/Linscheid) to amend OAR 820-010-0200 – Applications for Registration as Professional Engineers (PE) Based on Licensure by Another Jurisdiction (Comity). The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to amend OAR 820-010-0204 – Applications for Registration as Professional Engineers (PE) Based on Examination by Another Jurisdiction or by NCEES (1st Registration). The motion passed unanimously.

It was moved and seconded (Tappert/Linscheid) to amend OAR 820-010-0205 – Applications for Registration as Professional Land Surveyors (PLS) Based on Licensure by Another Jurisdiction (Comity). The motion passed unanimously.

It was moved and seconded (Tappert/Linscheid) to amend OAR 820-010-0206 – Applications for Registration as a Professional Land Surveyor (PLS) Based on Examination by Another Jurisdiction or by NCEES (1st Registration). The motion passed unanimously.

It was moved and seconded (Tappert/Kramer) to amend OAR 820-010-0207 – Applications for Registration as Professional Photogrammetrists (RPP) Based on Licensure by Another Jurisdiction (Comity). The motion passed unanimously.

It was moved and seconded (Tappert/Davis) to amend OAR 820-010-0208 – Applications for Registration as a Professional Photogrammetrist Based on Examination by Another Jurisdiction or by NCEES (1st Registration). The motion passed unanimously.

It was moved and seconded (Tappert/Wahab) to amend OAR 820-010-0215 – Form of Applications. The motion passed unanimously.

It was moved and seconded (Tappert/Kramer) to amend OAR 820-010-0227 – Educational and Experience Qualifications to Take the Fundamentals of Engineering (FE) Examination for Enrollment as an Engineering Intern (EI) and Applications Based on Non-Accredited Degrees. The motion passed unanimously.

It was moved and seconded (Tappert/Kramer) to amend OAR 820-010-0228 – Combined Educational and Experience Qualifications to Take the Fundamentals of Land Surveying (FLS) Examination for Enrollment as a Land Surveying Intern (LSI) and Applications Based on Non-accredited Degrees. The motion passed unanimously.

It was moved and seconded (Tappert/Linscheid) to amend OAR 820-010-0235 – Information to be Furnished by Water Right Examiner Applicants. The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to amend OAR 820-010-0255 – Reference Qualifications. The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to amend OAR 820-010-0440 – Schedule of Examinations. The motion passed unanimously.

It was moved and seconded (Tappert/Davis) to amend OAR 820-010-0455 – Exemption from FE or FLS Examination. The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to amend OAR 820-010-0470 – Review of Examinations. The motion passed unanimously.

It was moved and seconded (Tappert/Kramer) to amend OAR 820-010-0600 – Records. The motion passed unanimously.

It was moved and seconded (Tappert/Butts) to amend OAR 820-020-0040 – Examination Subversion. The motion passed unanimously.

ADJOURN

The meeting was adjourned at 4:15 p.m.

NEXT MEETINGS

Next Board Meeting:
January 13, 2009

Next Committee Meetings:

LAW ENFORCEMENT: Thursday, December 11th at 10:00 a.m.*

PROFESSIONAL PRACTICES: Friday, December 12th at 8:00 a.m.

RULES & REGULATIONS: Friday, December 12th at 10:00 a.m.

EXAMINATIONS & QUALIFICATIONS: Friday, December 12th at 11:00 a.m.

FINANCE: Friday, December 12th at 1:00 p.m.

* The 10:00 a.m. time on 12/11/2008 for the LEC is tentative. Depending on the schedule of informal conferences, the LEC may meet later in the afternoon.