

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

Minutes of Meeting  
September 13, 2005

**CALL TO ORDER**

Stuart Albright called the meeting to order at 9:06a.m. in the conference room of the OSBEELS Office, 728 Hawthorne Ave., N.E., Salem, Oregon.

**Members Present:**

Bob Neathamer (was excused)  
Stuart Albright  
Edward Butts  
Mari Kramer  
Dan Linscheid  
Dave Taylor  
Grant Davis  
Susanna Laszlo (was excused)  
Ron Stuntzner (was excused)

**Visitors Present:**

Gary Anderson, PLS, PLSO Liaison

**Others Present:**

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

Past-President Albright presided over the meeting due to an emergency that occurred earlier in the day. In the absence of Ms. Laszlo, Mr. Davis will present the Professional Practices report and Mr. Albright will inform the Board of the Examinations and Qualifications Committee activities in the absence of Mr. Stuntzner. It was also noted that there would be no President's report conducted. However, Mr. Halfman would present the Peer Review/Expert Witness information for President Neathamer under New Business.

## **APPROVAL OF AGENDA**

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

## **APPROVAL OF MINUTES**

It was moved and seconded (Taylor/Davis) to approve the minutes of the meeting of July 12, 2005. The motion passed unanimously.

## **PUBLIC INPUT**

Mr. Albright welcomed guest Gary Anderson, PLSO Liaison. No additional comments were made.

## **EXECUTIVE SECRETARY'S REPORT**

There were no questions to the Executive Secretary report as distributed. Ms. Lopez elaborated on the motion made at the NCEES Annual Meeting regarding JPEC. The NCEES Board of Directors proposed; *The Board of Directors moves that the Council authorize an exception to EAP 10 through and until the October 2008 exam administration to allow NCEES to contract directly with JPEC to provide NCEES exams to JPEC candidates.* The motion passed. She also informed the Board that Betsy Browne, NCEES Executive Director, Jerry Carter, NCEES Associate Executive Director and George Nishimura, NCEES Consultant have scheduled a visit to Tokyo to observe the FE exam administration. The NCEES representatives will arrive in Japan on Wednesday, October 26th and depart on Sunday, October 30, 2005.

Ms. Lopez informed the Board that she was contacted by Carol Halford, Administrator of OBAE to begin meeting preparations for the 2006 joint meeting. The Architect Board has set its 2006 meeting schedule, and would like to meet with OSBEELS on or around October 6th. It was determined to refer this matter to Ms. Laszlo's committee.

Ms. Lopez stated that fundamental steps have taken place toward relocating the Board office. AAG Dahlin is in possession of the lease agreement for review to protect the Board's interest prior to entering into this lease. The move-in target date is November 1, 2005.

## **PRESIDENT'S REPORT**

In lieu of the President's report, Mr. Albright summarized the business session held during the 2005 NCEES Annual Meeting and Mr. Linscheid summarized the Surveying Forum. Reports prepared by Mr. Linscheid were distributed.

## FINANCIAL REPORT

Ms. Kramer reported that the Finance Committee met in August and discussed the travel policy. Mr. Linscheid noted a typographical error on page 2 of the policy; drop the “s” on the heading “Private Aircrafts”. It was moved and seconded (Kramer/Linscheid) to adopt the travel policy as amended. The motion passed unanimously.

## LAW ENFORCEMENT COMMITTEE

The Law Enforcement Committee met on August 18, 2005 to discuss the following matters. Mr. Linscheid reported the following to the Board:

### Consent Calendar

The cases on the consent calendar included 2337 (Andrews), 2338 (Davis), 2345 (Lathrop), 2353 (Dewey), 2357 (Parsaie), 2358 (Devine), and 2363 (McHenry). It was moved and seconded (Linscheid/Butts) to approve the consent calendar. The motion passed unanimously.

### Recommended Board Actions

2331 – *Erich Armbruster*: The LEC recommended closing the case with a letter of concern. It was moved and seconded (Linscheid/Davis) to close the case by issuing a letter of concern. The motion passed unanimously.

2349 – *Doug Downie*: The LEC recommended closing the case as compliance met and issue a letter of concern. It was moved and seconded (Linscheid/Kramer) to close the case as compliance met and issue a letter of concern. The motion passed unanimously.

2352 – *Joseph Hassell*: The LEC recommended closing the case with a letter of concern. It was moved and seconded (Linscheid/Butts) to close the case by issuing a letter of concern. The motion passed unanimously.

2362 – *Steve Clifford*: The LEC recommended closing the case as compliance met and issue a letter of concern. It was moved and seconded (Linscheid/Davis) to close the case as compliance met and issue a letter of concern. The motion passed unanimously.

### Miscellaneous

2279 – *Janice Huskey*: An informal conference with Ms. Huskey was held prior to the August meeting. A settlement of the case was not reached. Ms. Huskey forwarded a 30-day notice letter to the Board stating that she would cease her surveying activities. The option of a cease and desist order will not be pursued at this point. The case has been referred to the Office of Administrative Hearings. Staff will follow-up on the 30-day notice to ensure compliance. Mr. Linscheid stated that during a conversation with Ed Graham, there may have been an OSBEELS case back in 1995 that dealt with similar practices. AAG Dahlin and staff will research this item.

*Definitions of Negligence, Gross Negligence, and Incompetence*: AAG Dahlin drafted a memorandum to the Board defining these terms. Because these terms are defined in case

law, they are not needed in the OSBEELS Policy Manual or in an administrative rule. It was moved and seconded (Linscheid/Davis) to remove the existing definitions from the policy manual. The motion passed unanimously.

*Joint Compliance Committee:* A copy of the July 15, 2005, meeting minutes was enclosed in the packet. Mr. Albright attended the meeting and summarized some of the highlights. One thing taken away from the meeting was a better understanding of the Geology Board's law enforcement process including the procedures used for issuing notices of intent. An action item resulting from the meeting was to appoint Board members to sit on the committee. The consensus from the members present was that the new geotechnical member soon to be appointed would be a logical candidate along with a member of the LEC. It was noted that President Neathamer could make the appointments at any time and that a Board vote was not needed.

*Closure Codes:* A copy of the law enforcement case closure sheet was included in the Board packet for informational purposes.

*Gilbertson v. Albright et. al.:* AAG Dahlin updated the Board on the status of this case. The Ninth Circuit Court dismissed the case against the Board members. However, there is still the possibility of further appeals.

*Case Status Report/Settlement Agreement Monitoring:* Mr. Linscheid noted that the Board packet included a copy of the case status report and the settlement agreement monitoring report.

*Doug Gilbertson Information:* During the meeting, an individual representing Mr. Gilbertson delivered a document to the Board office. Mr. Gilbertson wanted this document distributed at the meeting to all Board members. Mr. Gilbertson stated in his cover letter that he was unable to attend the Public Input portion of the meeting. The documents were distributed to the members present. No discussion was held.

Mr. Davis complimented staff members Brian Halfman and J.R. Wilkinson for doing a great job presenting the information at LEC meetings via the use of electronic media.

## **PROFESSIONAL PRACTICES COMMITTEE**

The Professional Practices Committee met on August 19, 2005.

### Engineering and Architecture Overlap

Mr. Davis reported that an informal luncheon was held to discuss the grey areas between the engineering and architect professions. In attendance at this luncheon were Ms. Laszlo and himself from OSBEELS and Ms. Sestak and Mr. Wilson from the Architect Board. Mr. Davis stated that the discussion was successful and future meetings will be planned to encourage an open dialogue between the Boards.

### Offer the Practice of Engineering or Land Surveying

Mr. Davis informed the Board that the Committee reviewed a memorandum regarding offering the practice of engineering or land surveying prepared by AAG Dahlin. The memorandum was included in the packets for informational purposes.

## **EXTERNAL RELATIONS COMMITTEE**

The External Relations Committee met on August 19, 2005 to discuss the following matters. Mr. Taylor reported the following to the Board:

### Legislative Issues

Mr. Taylor summarized the 2005 Legislative Session. He noted that the Rules & Regulations Committee is currently working on administrative rules to further clarify the enactment of SB 55.

### OSBEELS Website/ Oregon Examiner

Mr. Taylor informed the Board that staff is currently working to update the website due to the transition of exam administration to ELSSES.

Mr. Taylor stated that staff presented draft articles for the upcoming issue. More issues are needed before publication. Mr. Linscheid offered to draft an article regarding the background of SB 55.

## **RULES AND REGULATIONS COMMITTEE**

The Rules and Regulations Committee met on August 19, 2005 to discuss the following matters. Due to his absence, Mr. Butts requested Mr. Linscheid to update the Board on the following:

### Legislation

Mr. Linscheid reported that Dean Anderson, George Gross, and AAG Dahlin were present to assist the Committee in drafting rules to complement SB 55. The Committee and guests discussed language in the bill that would call for rule implementation. Since SB 55 will become effective January 1, 2006, draft rules will be submitted to AAG Dahlin for review. It was moved and seconded (Taylor/Linscheid) to hold a rules hearing in December. The motion passed unanimously. Mr. Linscheid also prepared and distributed a questionnaire that will assist in determining what actions are considered surveying effective January 1, 2006. AAG Dahlin reviewed the questionnaire and suggested minor revisions. The members present agreed the questionnaire was a good idea.

### Size of Seal Definition

Mr. Linscheid directed the member's attention to the proposed rule amending OAR 820-010-0620 that was included in the packets. It was moved and seconded (Linscheid/Davis) to proceed with the rulemaking process. The motion passed unanimously.

### OAR 820-010-0205 – Application for Registration as Professional Land Surveyors (PLS)

Mr. Linscheid informed the Board that the Examinations and Qualifications Committee requested the Rules and Regulations Committee to draft a temporary rule that will allow applicants that passed the national 6-hour professional land surveying exam but not

registered in another jurisdiction due to not successfully passing that jurisdiction's specific examination an opportunity to apply for registration in Oregon. AAG Dahlin further explained that the current rule requires applicants to be registered in another jurisdiction. It was moved and seconded (Kramer/Linscheid) to proceed with filing a temporary rule. The motion passed unanimously.

## **EXAMINATION AND QUALIFICATIONS COMMITTEE**

The Examinations and Qualifications Committee met on August 19, 2005 to discuss the following matters. In the absence of Mr. Stuntzner, Mr. Albright reported the following to the Board:

### Guest Discussion

Mr. Albright stated that Mr. Bolliger attended the meeting to discuss his application for the October 2005 Industrial Professional Engineering examination. Mr. Bollinger stated that he is unable to provide the required PE references staff requested per OAR 820-010-0255. He also stated that the Industrial Engineering field has very few licensed engineers; most individuals that he currently works with fall under the "industrial exemption." Mr. Albright informed the Board that the Committee approved his application for admittance to the PE examination.

### New Business

*Stanley Hattersley:* Mr. Albright summarized the discussion held regarding Mr. Hattersley who submitted an application by Comity. He stated that after the Committee reviewed the information submitted, they concurred with staff's evaluation requiring Mr. Hattersley to take the Professional Engineering examination per ORS 672.092.

*Jeffrey Francis:* Mr. Albright briefly explained that Mr. Francis submitted an application by Comity. Information submitted showed that the Oklahoma Board took disciplinary action against him for practicing without a license in Oklahoma and assessed a civil penalty. The order was finalized on May 4, 2004. Mr. Albright stated that after the Committee discussed his file, they recommended his application be submitted for approval.

*Continuing Professional Development Certification:* Mr. Albright stated that David Potter, PE, submitted a renewal form with the Continuing Professional Development certification box signed. He informed the Board that the Committee made no comment since Mr. Potter was not involved in an audit.

*Exceptions to Proposed Order:* Mr. Albright updated the Board regarding the denial of Timothy Burks' application to take the April 2005 PE examination. Staff sent correspondence encouraging Mr. Burks to re-apply for the April 2006 examination and submit all the documentation that he quoted in his letter.

*Traffic Engineering Application:* A draft application form to add the Traffic discipline to an existing license was distributed for informational purposes. Further discussion will be held at the next Committee meeting in October.

*NCEES Records Program:* Mr. Albright briefly explained that NCEES has proposed a program in which a Council record would be required for Comity licensure. NCEES is welcome to speak to the Board and discuss the benefits of this requirement.

*Oregon Land Survey Law #1 Workshop:* Mr. Albright informed the Board that several applicants have applied for the FLS examination with a Civil or Forest Engineering degree from OSU. After the Committee reviewed the course material, they determined that this workshop could count as 1 credit hour towards the requirements for the examination.

*Michael Carr:* Mr. Albright stated that an application was received by Mr. Carr for the FLS examination. After reviewing the documentation submitted, Mr. Albright noted that the Committee concurred with the staff's evaluation to deny Mr. Carr's application for the October 2005 examination.

*Koji Oki:* Mr. Albright informed the Board that the Committee denied Mr. Oki to the April 2005 FE Examination based on official documentation that showed an Undergraduate and Master's degree in Architecture from the Waseda University and a Master's degree in Engineering from Cornell University. Documentation provided did not satisfy OAR 820-010-0225(3)(a) or OAR 820-010-0225(3)(c). After further discussion and review, the Committee approved his application to sit for the October 2005 FE examination.

*Andrew Stoeckinger and Jessica Roberts:* Mr. Albright informed the Board both Mr. Stoeckinger and Ms. Roberts submitted applications for the October 2005 FE examination. They felt qualified for the FE examination under OAR 820-010-0225(3)(c). After review, the Committee concurred with staff's evaluation and denied both applications for the October 2005 FE examination.

*Deanne Pericak:* Mr. Albright stated that the Committee approved Ms. Pericak's application for the October 2005 FE examination. Based on documentation provided showing a Bachelor's degree in Landscape Architecture from Cornell University, Ms. Pericak has gained over 2 years of experience in various engineering technician positions. He stated that Ms. Pericak is also currently attending PSU to complete her Master's degree in Civil Engineering by December 2006 and has completed 7 of the 8 specified engineering courses listed in OAR 820-010-0225(3)(c).

*John Meier:* Mr. Albright informed the Board that Mr. Meier submitted an application based on education and experience for the October 2005 FLS examination. After reviewing the material submitted, the Committee concurred with staff's evaluation and denied Mr. Meier's application for this examination.

*Joel Slate:* Mr. Albright stated that Mr. Slate submitted an application for the October 2005 PLS examination but was unable to supply one additional reference staff requested as provided in OAR 820-010-0255. After reviewing the documentation submitted, the Committee determined that Mr. Slate needed one additional year of qualifying experience before gaining entrance to the PLS examination, and denied his application for the October 2005 exam.

*Review Reapplications:* Mr. Albright briefly updated the Board regarding the Committee's review of 30 applications for reexamination. 23 applicants were approved and 7 applicants were denied for the October 2005 exam.

## **NEW BUSINESS**

*Reviewers and Expert Witnesses:* Mr. Halfman presented a memorandum from President Neathamer to the Board Members regarding the recruitment of licensees to aid the Law Enforcement Committee in conducting review and providing expert testimony for law enforcement cases. The memorandum asked that each Board Member compile a list of five licensees willing to assist the Board.

Discussion ensued regarding the details of payment for services and liability of the reviewers. Currently, reviewers enter into a personal services contract with the Board in which they have agreed to volunteer their time but any expenses incurred would be reimbursed. AAG Dahlin stated that she would research the liability issues. The Board agreed that further information should be gathered before solicitation occurs. This matter will be placed on the LEC agenda for the October meeting.

## **ADJOURN**

The meeting was adjourned at 12:10p.m.

## **NEXT MEETINGS**

Next Board Meeting:  
November 8, 2005

### Next Committee Meetings:

EXAMINATIONS & QUALIFICATIONS: Tuesday, October 4th at 9:00a.m.

FINANCE: Tuesday, October 4th at 11:00a.m.

EXTERNAL RELATIONS: Tuesday, October 4th at 12:00p.m.

PROFESSIONAL PRACTICES: Tuesday, October 4th at 1:00p.m.

LAW ENFORCEMENT: Wednesday, October 5th at 9:00a.m.

RULES & REGULATIONS: Wednesday, October 5th at 2:00p.m.