



Oregon

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

670 Hawthorne Ave. SE, Suite 220

Salem, OR 97301

(503) 362-2666

Fax (503) 362-5454

E-mail: osbeels@osbeels.org

PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting

June 11, 2010

Members present:

Sue Newstetter, Chair

Ed Butts

Sue Laszlo

Amin Wahab

John Seward (excused absence)

Staff present:

Mari Lopez, Executive Secretary

Jenn Gilbert, Executive Assistant

Others present:

Joanna Tucker-Davis, AAG

Dan Linscheid, observer

Grant Davis, observer

Pieter Smeenk, City of Ashland

Mike Faught, City of Ashland

The meeting of the Professional Practices Committee was called to order at 8:00 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, OR 97301.

Guest Discussion –

Request for Clarifications

Staff received an inquiry from Pieter Smeenk, PE, regarding the proposed restructuring of the City of Ashland. He informs the Committee that a human resources firm from California was hired to prepare a classification study. The conclusions of that study have suggested a reorganization of the Engineering Division. He expressed his concerns with the proposed position descriptions and corresponding levels of responsibility; in particular, potential violations of Oregon Administrative Rule (OAR) 820-020-0020(2). To better understand the proposed changes, Mr. Smeenk, along with Mike Faught, the Public Works Director for the City of Ashland, attended the meeting to discuss in further detail with the Committee.

In reviewing the proposed job descriptions, the Committee noted that there is a difference in supervising personnel in a human resources manner and supervising an engineering work product. The Oregon Revised Statute (ORS) 672.020(2) states, “*The signature and stamp of a registrant constitute a certification that the document was prepared by the registrant or under the supervision and control of the registrant.*” Supervision and control is defined in ORS 672.002(10) as, “*establishing the nature of, directing and guiding the preparation of, and*

approving the work product and accepting responsibility that the work product is in conformance with standards of professional practice.” Regardless of the structure of an organization, if the professional engineer has affixed their seal and signature to a document, that engineer is representing they reviewed and determined that the document is appropriate for their specific project and, therefore, assumes responsibility for its application.

In an effort to answer Mr. Smeenk’s second question related to other municipalities that may have unlicensed staff performing engineering work, unsupervised; therefore in violation of ORS 672.002 and OAR 820-010-0010(5) and (6), the Committee turned to a previous response dated June 22, 2004 to the Department of Administrative Services (DAS). In this correspondence, the Committee responded that the Board does not dictate to organizations or governmental agencies that employ engineers or land surveyors how to administer internal staff issues. Nevertheless, the Board’s concern lies with ensuring that the designated professional engineer or professional land surveyor has appropriate credentials and has oversight of the products being sealed. Mr. Smeenk and Mr. Faught requested a copy of this correspondence.

It was further noted that the proposed job description for the “Engineer” did not require the incumbent to hold a professional license. This is a violation of law. Additionally, the proposed job description for “Engineering Services Manager” indicates in the first and second paragraphs that this position may serve in the capacity as the City Engineer. However, in the position description under special requirements, it is unclear if the incumbent must hold dual registration. If the incumbent is allowed to only hold a professional land surveyor registration, the City would be placing the professional land surveyor in violation of law (The City Engineer must hold a professional engineering registration). Assistant Attorney General Tucker-Davis also stated that if there is unlicensed engineering being performed, a complaint should be filed with the Board.

Mr. Davis further explained to Mr. Smeenk that water treatment plants or water storage structures such as large dams and tanks may be considered as a significant structure, depending on the materials used to construct the structure holding water. The same holds true for a reservoir. ORS 455.447 defines these as “essential facilities” that also fall within the definition of a significant structure contained in ORS 672.107.

Mr. Smeenk will also redraft additional questions for the Committee to consider during the next meeting in August.

Unfinished Business –

Response from DOGAMI and Shelby Griggs

The Committee was provided with the response Ms. Lopez received from DOGAMI regarding the matter of LiDAR and the LiDAR work performed by a contractor of DOGAMI. Vicki McConnell, Oregon State Geologist, replied on behalf of DOGAMI stating that they do not engage in professional practices that require a professional license in which an employee does not hold. She further included an interoffice memo from Don Lewis, DOGAMI Assistant Director, that outlined the requirements of the Oregon Purchase Agreement 8865 to include that the services “*must be done under the supervision of a State of Oregon registered and certified Professional Land Surveyor.*” However, there is still concern with Watershed Sciences, Inc. and

compliance with OAR 820-010-0720. Therefore, the Committee determined to refer the matter to the Regulation Department for additional research.

New Business –

Rock Pit Surveys

The Committee received an email that Board member Dan Linscheid received from Chuck Pearson, Clackamas County Surveyor. In the initial email, Mr. Pearson inquires why the Oregon Department of Geology and Mineral Industries (DOGAMI) does not file maps with the County Surveyor for rock pit surveys. After discussion, the Committee noted that the professional land surveyor is not establishing or reestablishing a boundary monument; therefore filing a permanent map with the County Surveyor is not required. It was also noted that there was no authoritative location of fixed works indicated. Staff will respond accordingly.

Significant Structure Clarification

The Committee received an email on May 24, 2010 from Jason Brown requesting clarification on the term “significant structure” as used in Oregon Revised Statute (ORS) 672.107 and if it applies to a light pole. He explained that his firm works closely with a lighting company to provide structural analysis and foundation design for numerous lighting projects. Mr. Brown further informs the Committee that the light poles are typically used at youth athletic fields. He also stated that his firm did not believe that light poles were considered a significant structure. After discussion, the Committee affirmed the belief of his firm; a light pole is not considered a significant structure. Staff will respond accordingly.

Request for Information

The Committee received an email from William Barlow, PE with several proposals for possible advertisements. Mr. Barlow is currently registered as a professional engineer especially qualified in the civil discipline. However, he would like to advertise for limited structural engineering services for non-significant structures as defined in ORS 672.107. After reviewing the proposed options provided by Mr. Barlow, the Committee determined that the verbiage in his first proposal was not in compliance with the laws and rules. The Committee would like Mr. Barlow to keep in mind ORS 672.045(2) and OAR 820-020-0035 when using his judgment to use the verbiage in his second or third proposals. Staff will respond accordingly.

Reference Manual for Building Officials –

Staff briefly informed the Committee that a work session was held on June 9, 2010. Participants of the work session included Sue Newstetter, Sue Laszlo, AAG Katharine Lozano, and staff. Final draft revisions were made; copies will be provided for the Board members’ review and approval with the July Board packets. Final revisions will be sent to the Oregon Board of Architect Examiners after the July Board meeting.

Ms. Laszlo also requested that the members of the Committee review the *History of the Oregon Definition of Electrical Engineering* prior to the July Board meeting. The Committee can then make a recommendation on how to proceed. She believes that a larger work group should be assembled to tackle the task of clarifying the definition of OAR 820-040-0010.

The meeting adjourned at 9:15 a.m.