

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

Minutes of Meeting
July 10, 2007

CALL TO ORDER

President Laszlo called the meeting to order at 9:00 a.m. in the Conference Room of the OSBEELS office at 670 Hawthorne Avenue, S.E., Suite 220, Salem, Oregon 97301.

Members Present:

Susanna Laszlo
Edward Butts
Grant Davis
Mari Kramer
Dan Linscheid
Bob Neathamer
John Seward
Ron Stuntzner
Carl Tappert
Amin Wahab
George Gross (unexcused absence)

Visitors Present:

Gary Anderson, PLS, PLSO Liaison

Others Present:

Mari Lopez, OSBEELS Executive Secretary
Jennifer Gilbert, OSBEELS Executive Assistant
James R. (JR) Wilkinson, OSBEELS Investigator
Joanna Tucker-Davis, Assistant Attorney General

APPROVAL OF AGENDA

President Laszlo requested to add Special Meeting Minutes of June 25, 2007, under the Approval of Minutes. It was moved and seconded (Davis/Neathamer) to approve the agenda as amended. The motion passed unanimously.

APPROVAL OF MINUTES

It was moved and seconded (Linscheid/Seward) to approve the minutes, as distributed, for the meeting of May 8, 2007. The motion passed unanimously. It was moved and seconded (Neathamer/Tappert) to approve the minutes, as distributed, for the Special Meeting of June 25, 2007. The motion passed unanimously

PUBLIC INPUT

President Laszlo welcomed guest, Gary Anderson, PLS and invited comments. Mr. Anderson stated that it has been some time since the last distribution of the Oregon Examiner. Ms. Kramer noted that a regular schedule has been developed and will be discussed during the External Relations report.

EXECUTIVE SECRETARY'S REPORT

Committee Activities

Ms. Lopez reported that the Examinations and Qualifications Committee, External Relations Committee, Finance Committee, Law Enforcement Committee, Professional Practices Committee and Rules and Regulations Committee each met during the interim. The Committee minutes are included in the packets.

Administrative Activities

April 2007 Examinations

Ms. Lopez stated that the FE, FLS, PE, PLS, and WRE examination scores were sent. Examinees that failed an exam from this administration were not given an extended deadline to submit a re-application form. She noted that staff is currently preparing for the October examinations.

Geotechnical Examination

Ms. Lopez reported, with great excitement, that a complete and signed contract has been received from the California Board! After discussion, it was noted that there is not sufficient time to advertise for an October 2007 administration; the first administration of the Geotechnical Examination will be held in October 2008.

NCEES 86th Annual Meeting

Ms. Lopez mentioned that arrangements have been made for the NCEES conference in August 2007, that will be held in Philadelphia, PA at the Loews Philadelphia Hotel. Attendees will be Sue Laszlo, Dan Linscheid, Carl Tappert, Mari Lopez, and Jenn Gilbert.

Secretary of State Audits Division

Ms. Lopez reported that Merina & Company, LLP of West Linn, OR will once again be conducting the regularly scheduled audit for the agency. There was no further discussion.

Board Vacancies

During the April 2007 Committee meetings, it was announced that George Gross may have resigned, but the Board had not yet received a resignation letter or notification of his resignation

from the Governor's Office. However, Ms. Lopez informed the members that she has since received updated information from the Governor's Office; a letter will be sent informing Mr. Gross that the Governor's Office will find a replacement for his position. Currently, no replacement has been found for the land surveyor position. However, Mr. Neathamer commented that a replacement may be appointed shortly.

Staffing

Ms. Lopez noted that Jennifer Carmack (Mageske) will be returning to OSBEELS on July 2, 2007, as a Licensing Specialist. Lauren Olson is also scheduled to return to work on July 2, 2007, as a Licensing Specialist.

She also reported that, along with members of the Law Enforcement Committee and Ms. Gilbert, second interviews were conducted on July 9, 2007, for the Investigator positions.

President Laszlo took the Board into Executive Session as provided by ORS 192.660(2)(a) to discuss employment matters.

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

As a result of interviews conducted, it was determined that the Board will perform a study related to the duties and responsibilities of positions held within the agency. Staff will research alternative methods for completing the duties of the Investigator positions; the positions will not be filled at this time.

PRESIDENT'S REPORT

President Laszlo welcomed new Board Member Amin Wahab. Mr. Wahab gave a brief description of his broad background, including his education, previous employment, working experience, and shared a small part of his personal life. Welcome Mr. Wahab!

President Laszlo shared with the members that a request was made to Governor Kulongoski regarding the 100 Years of engineering licensure in the United States. To date, no response has been received.

President Laszlo stated that the new committee assignments were included in the packets. There was no further discussion.

FINANCIAL REPORT

Mr. Tappert reported that the Finance Committee met on June 8, 2007, to discuss the following matters:

Review of Current Financial Activity

Mr. Tappert stated that the Committee reviewed the financial activity of the Board. The end of the biennium funds will be reviewed during the next meeting. He mentioned that due to the rising costs of operation, in conjunction with the discussion held earlier, the Committee discussed an increase to renewal fees. Mr. Tappert reported, with support from Mr. Neathamer,

OSBEELS has one of the least expensive renewal fees (\$40/year) throughout the United States. He mentioned that staff was directed to conduct additional research in assisting the Committee to determine the appropriate fees for funding the Board's operations.

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 June 7, 2007, to discuss the following matters:

Consent Calendar

There were two cases on the consent calendar; case numbers 2439: Grover and 2458: "J.B. Electric." It was moved and seconded (Neathamer/Davis) to approve the consent calendar. The motion passed unanimously.

The Board briefly discussed the status of case 2339: Bowser. Mr. Neathamer noted he signed the final order to close the case on June 29, 2007. Mr. Wilkinson confirmed that Mr. Bowser received his copy of the signed final order and settlement agreement.

Mr. Linscheid raised an inquiry regarding the terms of a General Document and Electronic Media Release policy. A professional land surveyor was required to sign the policy prior to being allowed access to a firm's engineering and surveying documents. The policy, particularly item number 4, included statements about removing logos and surveyor seals from documents. The policy appears to violate existing rules regarding final documents. It was noted that similar policies are fairly common in the engineering field, but not in land surveying. Some firms hire consultants and when the firm turns such information over to a third party the release conveys a "no warranty" status to that document. The intent behind item 4, however, is unclear. Ultimately, the firm may not be aware of or understand the significance of the policy's impact to the practice of land surveying. It was also mentioned that the policy is a practice issue and not a law enforcement matter. After discussion, it was determined that the Professional Practices Committee would review the policy and issue a statement to the surveyor who brought the matter to the Board's attention.

Professional Reviewer and Expert Witness Applicant

The Committee recommended that *Abdollah S. Yekta, PE – Civil/Environmental/Geotechnical Engineering* be added to the list of reviewers. Mr. Yekta provided a Statement of Qualifications that met the requirements outlined in the RFQ. It was moved and seconded (Linscheid/Seward) to approve Yekta and add him to the list of reviewers. The motion passed unanimously.

Mr. Linscheid asked if there were questions regarding the status of settlement agreement monitoring. There were no questions.

Mr. Stuntzner observed that there is too much investigation responsibility put on the complainant. He noted that because complainants did not submit additional information, two cases were closed. The Board has a responsibility to investigate even when additional information is not forthcoming. Mr. Neathamer supported these statements and noted that field

investigation is a vital component in the regulation department and investigators must get into field.

PROFESSIONAL PRACTICES COMMITTEE

Mr. Tappert reported that the Professional Practices Committee met on June 8, 2007, to discuss the following matters:

Definition of “hydrology engineering”

Mr. Tappert summarized the discussion held regarding the question of what is “hydrology engineering” as referred from the Law Enforcement Committee. In case 2448, a hydrologist conducted a stream study and used the word “design” in the title. The question was did he practice engineering? The report did not provide engineering recommendations, but it raised the question of distinguishing between hydrology and engineering. He stated that the Committee discussed hydrology as the scientific observation of natural phenomena. A scientific study becomes engineering when it gets into creative works by making design recommendations. The report was not a design, but a scientific stream analysis.

Fire Protection Engineering

Mr. Tappert informed the members that Building Officials are not consistent in interpreting rules requiring engineering seals and signatures on fire protection systems with the notable exception of the City of Bend. One of the common ways the rules are skirted is that the engineer of record would submit engineered plans along with shop drawings by fire protection contractors. From a previous AAG memorandum, the Board interprets that fire protection designs are the practice of engineering. Building Officials appear to understand this requirement, but they are not requiring submittals to be sealed and signed by a registrant.

Since most jurisdictions are not requiring an engineering seal and signature on fire protection systems, discussion was held regarding options to enforce the requirement. The first step is to verify the legal framework and to develop a plan to bring the practice into compliance. The plan would be based on a cooperative relationship with Building Officials. If Building Officials start to require the engineering seal, registrants will fill the market niche. It would also involve informing the engineering community of the issue and potential violations and sanctions. The Board will develop a plan before moving forward with an aggressive compliance initiative.

Plumbing Contractor and Mechanical Engineering

Mr. Tappert summarized a discussion regarding an 8,000 square foot warehouse in which a local jurisdiction did not require a professional seal on the plumbing design. He noted that this was a non-exempt building that required an engineering seal. A response was sent accordingly.

Reference Manual for Building Officials

Mr. Tappert noted that copies of the revised Reference Manual for Building Officials were included in the board packets. Since the 2007 Legislative Session has concluded, it was requested of AAG Tucker-Davis to review approved bills and determine if any apply to OSBEELS. The Board will collaborate with the Architect Board on the next update, in which OSBEELS will take the lead. A suggestion was made to include the issue of fire protection systems.

EXTERNAL RELATIONS COMMITTEE

Ms. Kramer reported that the External Relations Committee met on June 8, 2007, to discuss the following matters:

Gubernatorial Proclamation

Ms. Kramer reiterated that Year 2007 marks a milestone in the engineering profession as 100 years of engineering licensure is celebrated in the United States. A gubernatorial request to Governor Kulongoski to receive a message commemorating this occasion was sent in June.

Oregon Examiner

Ms. Kramer reported that the Committee discussed suitable times to distribute the newsletter, the content and design of the newsletter, and the timeframe in which articles should be submitted for inclusion. It was determined that articles to be included in newsletters should be submitted at the January and July board meetings for inclusion in the February and August distribution schedule, respectively. However, due to the timing, articles are due at the September Board meeting for the next newsletter; to be distributed later in the month.

Website

Ms. Kramer noted that the Committee briefly discussed the progress of migrating the OSBEELS Website to Oregon.gov. A link to information on how to become a board member will be included on the new site.

RULES AND REGULATIONS COMMITTEE

Mr. Davis reported that the Rules and Regulations Committee met on June 7, 2007, to discuss the following matters:

Article for Oregon Examiner – Exempt Status

Mr. Davis commented that an article regarding the “exempt” status is nearly complete. The article covers proposed revisions recently drafted to OAR 820-010-0010(17) and to the “retired” status, OAR 820-010-0010(19) as a companion topic.

OAR 820-010-0470 – Review of Examinations

After a brief discussion and review of changes to OAR 820-010-0470 – Review of Examinations, it was moved and seconded (Davis/Kramer) to approve OAR 820-010-0470 – Review of Examinations, as presented to begin the rulemaking process. The motion passed unanimously.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Ms. Kramer reported that the Examinations and Qualifications Committee met on June 8, 2007, to discuss the following matters:

Reading Articles for Professional Development Hours (PDH's)

Ms. Kramer briefly summarized an inquiry from Reginald Smith, Senior Program Coordinator for American Society of Civil Engineers (ASCE) regarding an ASCE program enabling registered professional engineers to earn qualifying PDH's. She reported that after a brief

discussion, the Committee agreed that upon successful completion of this program, a registrant may earn a maximum number of 6 PDH's per renewal period (OAR 820-010-0635(3)(h)).

Oregon 4-Hour Land Survey Law Exam Scores

Ms. Kramer noted that the Committee received a request from Jason Hatfield, for the Board to release his exam score for the April 2007 Oregon 4-Hour Land Survey Law exam. After discussion, the Committee agreed to inform Jason Hatfield of his score for the April 2007 Oregon 4-hour Land Survey Law exam. Mr. Neathamer also commented that, as a result of an appeal to this examination, all examinations are in the process of being re-graded, and if necessary, re-scored.

Future Changes to NCEES Examination and Supporting Materials

Ms. Kramer briefly mentioned correspondence received from NCEES notifying Member Boards of future changes to NCEES examinations and supporting materials.

Action by the Illinois Board

Ms. Kramer summarized correspondence from NCEES regarding action by the Illinois Board for Professional Engineers. The Illinois Board for Professional Engineers recently ruled that the Surveying Engineering curriculum at Ferris State University is not an acceptable degree for the pursuit of licensure as a professional engineer.

Exam Administration Collection of SSN's

Ms. Kramer reported that NCEES eliminated the collection of SSN's from exam candidates. In addition, all SSN information previously collected on answer sheets and contained in NCEES databases have been destroyed. However, due to Oregon Law, OSBEELS will continue to require SSN's on applications for licensure.

Certified Water Right Examiner (CWRE) Test

AAG Tucker-Davis summarized the fee issues related to the administration of the CWRE Exam. This was a result of her efforts in developing a Memorandum of Understanding between OSBEELS and the Water Resources Department (WRD). Since there is a conflict in several statutes related to Certified Water Rights Examiners, further discussion will be held at the next Committee meeting in August.

Acoustical Examination

Ms. Kramer briefly noted that the Committee reviewed documentation outlining the process of administering the Acoustical examinations and requested AAG Tucker-Davis to develop a draft MOU between OSBEELS and the volunteers. Further review and discussion will be held at the next Committee Meeting in August.

CPD Audit Policy

Ms. Kramer stated that the Committee revised the current policy for conducting random audits with regards to Continuing Professional Development (CPD) requirements as a condition of licensure renewal. The revisions were necessary to include the registered professional photogrammetrists. After discussion, it was determined to refer the policy back to the Rules and Regulations Committee to consider a definition for status of a "suspended" license.

Review of Reapplications

Ms. Kramer reported that the Committee reviewed re-applications from those who did not achieve a passing grade in their first and second written examinations. All of the 5 reapplications reviewed were admitted to the October 2007 examinations. Mr. Stuntzner requested information be provided after exam administrations to include the passing rates of those reviewed and approved through this process.

Licensure

Comity Applications – Ms. Kramer directed the attention of the Board to the list of 94 applicants for licensure by Comity. It was moved and seconded (Kramer/Stuntzner) to approve the list of 94 applicants. The motion passed unanimously.

Applications by Prior Practice – Ms. Kramer directed the members' attention to the list of 6 applicants seeking registration by prior practice. It was moved and seconded (Kramer/ Tappert) to approve the list of 6 applicants as presented. The motion passed unanimously.

First Licensure Applications – Ms. Kramer directed the members' attention to the list of 4 applicants seeking first licensure registration. It was moved and seconded (Kramer/Linscheid) to approve the list of 4 applicants as presented. The motion passed unanimously.

UNFINISHED BUSINESS

Ms. Laszlo summarized the statement from MAPPS, Management Association for Private Photogrammetric Surveyors regarding the court ruling on the question of whether the Federal Acquisition Regulations (FAR) properly implement the Federal "Brooks Act." It was noted that the Court did *not* address the legal merits and policy issues of the case as presented by MAPPS, therefore unresolved.

ADJOURN

The meeting was adjourned at 11:40 a.m.

NEXT MEETINGS

Next Board Meeting:
September 11, 2007

Next Committee Meetings:

LAW ENFORCEMENT: Thursday, August 2nd at 10:30 a.m.

RULES & REGULATIONS: Thursday, August 2nd at 1:00 p.m.

EXTERNAL RELATIONS: Friday, August 3rd at 9:00 a.m.

PROFESSIONAL PRACTICES: Friday, August 3rd at 10:00 a.m.

FINANCE: Friday, August 3rd at 12:30 p.m.

EXAMINATIONS & QUALIFICATIONS: Friday, August 3rd at 1:00 p.m.