



Oregon

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

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Minutes of Meeting

March 11, 2008

CALL TO ORDER

President Laszlo called the meeting to order at 9:01 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 (departed at 2:46 p.m.)
Grant Davis
Mari Kramer
John Seward
Ron Stuntzner
Carl Tappert
Amin Wahab
Dan Linscheid (excused absence)

Visitors Present:

Gary Anderson, PLS, PLSO Liaison
Bob Neathamer, PLS
Alison Davis, Executive Director, ACEC of Oregon
Erik Petersen, PE
Dee Lockwood, PE
Jim Schwager
Ron Singh, PLS (joined by telephone at 11:04 a.m.)

Others Present:

Mari Lopez, OSBEELS Executive Secretary
Jennifer Gilbert, OSBEELS Executive Assistant
Joanna Tucker-Davis, Assistant Attorney General

APPROVAL OF AGENDA

Ms. Kramer requested to add Item E: John Lucey – PLS Application by Comity, under agenda item number 6, Examinations & Qualifications. President Laszlo also requested to add Item E: PLSO Door Hanger under agenda item number 10, Law Enforcement. It was moved and seconded (Davis/Tappert) to approve the agenda as amended. The motion passed unanimously.

APPROVAL OF MINUTES

Mr. Seward noted a few minor errors in the draft minutes for the January 8, 2008 meeting; a typographical error on page 4, repeated words on page 9, and deletion of the word “be” in the first sentence of the first paragraph on page 14. It was moved and seconded (Davis/Wahab) to approve the minutes, as revised, for the meeting of January 8, 2008. The motion passed unanimously.

PUBLIC INPUT

President Laszlo welcomed the guests and requested introductions.

Bob Neathamer, PLS stated that he was in attendance to observe the discussion that would be held regarding digital signatures. Mr. Neathamer also thanked the Board for inviting him to serve as an Emeritus Member to the National Council of Examiners for Engineering and Surveying (NCEES); however, he is unable to put forth full effort at this time but would like to be reconsidered for the year 2009. Alison Davis and Erik Petersen, PE, representatives of the American Council of Engineering Companies (ACEC) of Oregon, were also in attendance as observers regarding the discussion that would be held concerning digital signatures.

Dee Lockwood, PE, and Jim Schwager both stated that they were in attendance due to their interest in the topic of fire protection engineering. President Laszlo informed the guests that this topic would be discussed under the Executive Secretary’s Report.

Gary Anderson, PLS, stated that he was in attendance as the liaison for the Professional Land Surveyors of Oregon (PLSO) association. He shared comments he received from professional surveyors who appreciate the inclusion of easements to protect surveying monuments but are curious as to how this would be enforced. Secondly, Mr. Anderson shared a discussion held at the recent PLSO meeting regarding tax assessors or cartographers that appear to create parcels from their interpretation of deeds. He stated that this could result in havoc for adjacent land owners. President Laszlo noted that there is currently an open issue under review by the Law Enforcement Committee. However, she encouraged registrants to report any violations to the Board; the Board also accepts anonymous complaints. She also noted that the outcome of the current matter could set precedence for future matters. Mr. Davis also stated that general questions could be directed to the Professional Practices Committee as well. As a reminder, President Laszlo stated that general questions receive a general answer; not specific to any circumstance.

EXECUTIVE SECRETARY’S REPORT

Committee Activities

Ms. Lopez stated that the Examinations and Qualifications (E&Q) Committee, External Relations Committee, Finance Committee, Law Enforcement Committee (LEC), Professional Practices Committee (PPC) and Rules and Regulations (R&R) Committee each met during the interim. In addition, a joint meeting was held with members of the PPC and the R&R Committee concerning digital signatures. The Committee minutes were included in the packets.

Administrative Activities

Oregon Specific Examinations/ELSESES

Ms. Lopez reported that staff submitted a list of approved candidates to the Engineering and Land Surveying Examination Services (ELSESES) on March 7, 2008. The local examinations are scheduled to be held in Salem on April 11 - 12, 2008 at the Oregon State Fair & Expo Center. 3 examinees have been approved for the Forestry Examination, 40 examinees have been approved for the Oregon Land Surveying 4-hour Law Examination and 12 examinees have been approved for the Certified Water Rights Examination. The Certified Water Rights Examination is scheduled to be held on April 11, 2008 in conference rooms 124A and 124B at the Water Resources Department.

October Exam Application and May Comity Application Fees

Ms. Lopez noted that a discussion should be held depending on the outcome of the Rules Hearing to be held at 1:00 p.m. Staff would like clarification on the effective date of the new fees for exam and comity applications that have already been received.

Registration

Ms. Lopez reported that annual renewal activity for June is underway and courtesy reminders will be mailed in April.

SIBA

Ms. Lopez reported that she attended a Semi-independent Board Administrators (SIBA) meeting held on January 15, 2008. Miscellaneous issues were discussed; however, one highlight of the meeting was a presentation by Lynn Beaton, Business Continuity Planning Manager with the Oregon Department of Administrative Services. Information was provided to assist the Boards on the process of developing a business continuity plan. She noted that Felicia Holgate, Executive Director of the Oregon Occupational Therapy Licensing Board shared the plan she drafted for the Health Related Licensing Boards and offered it to the group as a guide; however, Ms. Lopez also commented that she had concerns with some areas of their plan.

DAS Statewide Training - Family and Medical Leave Administration

Ms. Lopez stated that on January 1, 2008, a Statewide Policy regarding "Family and Medical Leave" went into effect. Therefore, on January 30, 2008, she attended training, with Ms. Gilbert, on the policy, the administration of Family and Medical Leave, use of the Medical Certification form. Ms. Lopez noted that other optional tools available to the OSBEELS were discovered during the training.

2008 Central & Western Zones Joint Meeting

Ms. Lopez informed the members that the 2008 Central and Western Zones Joint Meeting has been scheduled. The meeting will be held at the Ramkota Hotel, in Bismarck, North Dakota on May 15-17, 2008. Delegate notification response is needed by April 15, 2008. In addition to President Laszlo, Mr. Linscheid has showed interest in attending. As a reminder, it was noted that no more than 5 members may attend to avoid a quorum.

2009 Western Zone Meeting in Alberta

Due to the punitive cancellation policy contained in the contract for the location of the 2009 Western Zone meeting, Ms. Lopez stated that Vice-President Dave Whitman is requesting each state to provide a rough number of attendees, rooms, and nights. The meeting is scheduled to be held at the Banff Park Lodge in Alberta, Canada on May 28-30, 2009. The estimated per night cost is approximately \$155.00 US (including taxes). She noted that the number provided by the Board will not commit the Board to a specific attendance number. It was determined that those interested in attending the 2009 Western Zone meeting should notify Ms. Lopez by April 15, 2008.

Fire Protection Meeting

Ms. Lopez reported that a meeting was held at the OSBEELS office on February 5, 2008 to discuss the issues related to the design of fire protection systems. Along with Ms. Lopez, in attendance were Mark Long, Building Codes Division (BCD) Administrator, Chris Huntington, BCD Policy Analyst, Carol Halford, Oregon Board of Architect Examiners (OBAE) Administrator, Bill Wilson, OBAE member, and Carl Tappert, OSBEELS member. She stated that the group reviewed and discussed the recent Assistant Attorney (AAG) opinion concerning Fire Protection Systems (DOJ File No. 917001-GB0405-07). Ms. Lopez distributed the article that summarized the opinion. She stated that upon approval by all parties, the group agreed to also utilize it as a press release to the constituents of the BCD, the OBAE and the Construction Contractor's Board (CCB). Jim Schwager further discussed with the Board his concerns from the perspective of a plan reviewer. He stated that additional input from the Society of Fire Protection Engineers may also be beneficial to the overall understanding of the issue. Mr. Tappert noted that a discussion would be held during the next PPC meeting and the public is welcome to attend. Several suggestions were made to the draft article. Staff was directed to complete the revisions for review during the April PPC meeting.

NCEES Exam Administration Forum

Ms. Lopez reported that she attended an Exam Administration Forum with Lauren Olson, Registration Coordinator, at the NCEES headquarters in Clemson, S.C. on February 20-21, 2008. Although the OSBEELS is an ELSSES state, she stated that this was certainly a very valuable use of their time. She was able to refresh her memory and it also presented an opportunity for Ms. Olson to gain another perspective regarding exam administration. She also noted the opportunity to network with staff from other Boards as well as the staff from the NCEES. If the opportunity is presented in the future, she will certainly send other licensing staff from the office.

Secretary of State Audits Division

Ms. Lopez reported that Merina & Company, LLP of West Linn, OR completed the Board's audit. There were four audit findings for the 2005 – 2007 biennium. Displayed on the projection screen for review and approval, were the draft responses to each finding for inclusion in the final report. After the discussion of each finding, along with any necessary revisions, the members concurred upon a response for each finding to submit to Merina & Company. Ms. Lopez noted that in order for Merina & Company to release the final report, the Secretary of State Audits Division must complete a review and approval of the financial statements. In addition, upon

receiving the responses from the Board to the Schedule of Findings, Merina & Company will schedule an exit audit teleconference meeting.

The OSBEELS' Employee Handbook and Policies

Ms. Lopez reported that the revisions to the policies (deleting references made to DAS) were emailed to AAG Kathryn Logan on January 17, 2008. As of this date, she has yet to receive comments.

Board Vacancies

Ms. Lopez briefly noted that the Board has yet to fill the engineer position vacated by George Gross. Ms. Davis and Mr. Petersen offered to notify their members during the next ACEC of Oregon meeting of the vacancy on the OSBEELS Board.

May 13, 2008 OSBEELS Board Meeting

Ms. Lopez reported that the OSBEELS Board meeting is scheduled to be held at the new Kelly Engineering Center on the OSU campus. Upon receipt of further information, Ms. Gilbert will email the members of the Board.

Staffing

Ms. Lopez reported that an announcement has been posted with the Employment Department for two full-time Investigator positions. As of this date, the Employment Department referred 4 individuals to apply. The OSBEELS office received one application.

As requested by the Performance Evaluation Committee on January 8, 2008, Ms. Lopez provided her goals and objectives. President Laszlo noted that in addition to the goals of Ms. Lopez, an ongoing project has been the Employee Handbook.

PRESIDENT'S REPORT

President Laszlo distributed a revised draft version of the Executive Secretary position description. Mr. Seward made minor clarifications to the classification of, the primary guidelines to, and the nature and scope of the position. The Board agreed to the revisions. There was no further discussion.

President Laszlo briefly noted that Samantha Bianco resigned from her position with the Board. With her appointment, the Governor's Office overlooked a requirement of the ORS 672.240; hold a registration for a minimum of five years. There was no further discussion.

President Laszlo also summarized a topic that recurred from an August 2006 issue. In August 2006, an individual reported that they were able to gain access to the personal information, such as birth dates and social security numbers of registrants held in the OSBEELS database. The most recent email, February 22, 2008, suggested that the individual was still able to obtain this information. In the past, this information was available on the OSBEELS Web site, but password protected. Immediately upon notification in August 2006, the information was removed. In addition, with the advice from the AAG, the individual received a standard letter requesting destruction of any information. The individual was then subject to an investigation by

the Board. However, the previous Compliance Specialist/Investigator, Brian Halfman, spoke with him about the matter, but never followed-up. Therefore, the individual received no closure and was inquiring about the status. During a telephone conversation held with Ms. Lopez, Mr. Stuntzner, and President Laszlo as a follow-up to the February 22, 2008 email, it was discovered that the individual recently saw the link on the Web site and assumed it was still active. President Laszlo informed the individual that the link is no longer active and inquired if copies of the previous information existed with the individual. The individual stated that the information was destroyed. President Laszlo then reported to the members that the information available on the OSBEELS Web site includes mailing address and license information. As a result of the telephone discussion, all parties agreed that the matter is now closed. Ms. Lopez further reported to the members of the information that was contained in the OSBEELS file regarding the matter. In addition, the February 22, 2008 email also alleged that there was a lack of communication. However, President Laszlo stated that a secondary attempt by telephone is reasonable since emails are not always transmitted successfully.

Finally, President Laszlo reported that two new members will be joining the Board. For that reason, she stated that she will be reviewing the current committee assignments and will request preferences in which committees members would like to participate by email.

JOINT RULES & REGULATIONS/PROFESSIONAL PRACTICES COMMITTEE

** Ron Singh, PLS, entered the discussion by telephone at 11:04 a.m.*

Mr. Davis reported that a joint meeting was held with members of the Rules and Regulations and the Professional Practices Committees on February 4, 2008. He explained the resources utilized by the group was the language contained in the NCEES Model Law, in addition to utilizing the language contained in the regulations of the State of Arizona, an email from previous AAG Kathi Dahlin, and the ORS Chapter 84. After discussion, the group agreed to propose the draft language as presented in the packets. However, Mr. Davis stated that after additional review, it was noticed that in the proposed draft language of the OAR 820-010-0620(5)(b), “digital signatures” is mentioned, but not defined. In the State of Arizona, Mr. Davis states that the definition for an electronic signature is a broad definition and the digital signature has a specific definition. Therefore, at this point, the group is presenting this information and related proposed language for additional review and comments.

ACEC of Oregon Executive Director, Alison Davis and association member, Erik Peterson, PE, presented several concerns to the Board. The concerns included the cost of implementation, the capability of software functions, and the possible demand from clients. The concerns of liability, and questions regarding the implementation and security levels were also discussed. Mr. Singh also noted that he would be giving a presentation to the ACEC of Oregon members later in the month. Another joint Professional Practices and Rules and Regulations Committee meeting will be scheduled in the month of April for additional discussion. Interested parties are welcome to attend and provide input.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Ms. Kramer reported that the Examinations and Qualifications Committee met twice during the month of February. During the first meeting held on February 4, 2008, the following matters were discussed:

Seung Un Lee

AAG Joanna Tucker-Davis summarized the outcome of the teleconference regarding a request from Seung Un Lee to reconsider results. Seung Un Lee requested a reconsideration regarding the Committee's decision to consider the results of the October 2007 examination as invalid. AAG Tucker-Davis briefly explained her findings and investigation that included confusion as to the gender of Seung Un Lee. AAG Tucker-Davis also reported that, during the teleconference, Mr. Lee stated he did hear and understand the announcement to end the morning portion of the exam. Ms. Kramer reported that the Committee, after discussion, determined the previous recommendation will remain to consider his examination results invalid.

Reference Form Instructions

Ms. Kramer reported that the Committee reviewed a request to revise the reference instructions so that all references are sent directly to the Board office. The concern presented was that the suggestion would avoid an applicant accidentally opening the sealed envelope containing a reference. After discussion, Ms. Kramer stated that the Committee thanked the individual for presenting the concern, but determined that the current procedure will remain to include all references in the single package submitted to the Board office.

License Expiration

Ms. Kramer reported that the Committee reviewed a request to renew a certificate of registration as a professional land surveyor and certified water rights examiner that became delinquent on December 31, 1993. In accordance with the ORS 672.170(4), the Committee responded that the certificates of registration as a professional land surveyor and certified water rights examiner are not renewable. If applicable, the individual was informed that an application by comity could be submitted to regain a certificate of registration as a professional land surveyor. If a valid certificate of registration is not held in another jurisdiction, an application by examination may be submitted. To regain a certified water rights examiner certificate of registration, an application for examination must be submitted. Ms. Kramer noted that in addition, the Committee forwarded the letter to the Law Enforcement Committee for further review; violation of the ORS 672.045 may have occurred.

Oregon Administrative Rule (OAR) 820-010-0225(3)(d)

Ms. Kramer noted that the Committee reviewed additional documentation submitted for entrance to the fundamentals of engineering examination. An individual was initially denied based upon deficient information submitted regarding the 6 of the 9 course requirements in the OAR 820-010-0225(3)(d). After review of the additional documentation submitted, it was determined that the individual met the qualifications to take the April 2008 examination.

Ms. Kramer also noted that the Committee clarified how the 6 of the 9 courses in the OAR 820-010-0225(3)(d) should be counted. Information submitted must show 6 of the 9 *subjects*

completed. Ms. Lopez stated that staff requested clarification due to the recent number of applicants submitting insufficient documentation of the required subjects completed.

Degree Post Date

Ms. Kramer reported that another inquiry was received regarding the degree post date. The individual is aware their requirement to attend classes during summer term at Oregon State University; therefore, the degree will not be posted until after the September 1st, 2008 deadline. Consistent with the previous decisions made, Ms. Kramer stated that the Committee recommended the individual to wait for the October 2008 examination to apply.

Informational

Ms. Kramer briefly noted the information reviewed by the Committee for informational purposes. The information included a Revised Candidate Agreement from the NCEES, a memorandum from the ELSEES Logistics Coordinator informing the Oregon Board that the April 2008 administration will be held in Salem at the Oregon State Fair Grounds, and an opinion from AAG Tucker-Davis regarding examinations and liability. Ms. Kramer stated that the opinion from AAG Tucker-Davis suggested having a process in place that all state specific examinations must follow.

TEST, Inc. Proposal

Ms. Kramer noted that the Committee reviewed a proposal from TEST, Inc. regarding the possible development of Oregon specific examinations. She reported the Committee responded that the Board is not in need of their services at this time.

Dean's List Transcript Documentation

As a follow-up to the discussion held during the January 8, 2008 Board meeting, Ms. Kramer reported that 5 individuals from previous examinations were contacted. Ms. Kramer further reported that the Committee will continue to follow the degree post date and that the Rules and Regulations Committee has been requested to revise the OAR 820-010-0225(2) to clarify that "... completion of a curriculum..." will refer to the date posted on an official transcript.

Retirement and License Status Process

Ms. Kramer reported that the Committee reviewed draft copies of retirement and reinstatement request forms. She noted that a possible increase to the reinstatement fee was also discussed. In addition, for all PDH units that the individual is required to complete to regain active status, supporting documentation must also be submitted for review by the Committee. Ms. Kramer stated that AAG Tucker-Davis confirmed the Board has the authority to deny a reinstatement, pursuant to ORS 672.255(g) if the supporting documentation for the PDH units completed is found to be insufficient. Ms. Kramer stated that the matter has been forwarded to the Rules and Regulations Committee to revise the OAR 820-010-0520(2) to require a request for retirement form provided by the Board.

Washington Structural III Grading

Ms. Kramer reported that the October 2007 Structural III results were received; two individuals passed.

Review of Applications

Comity Application

Ms. Kramer stated that an application for registration as a professional engineer by comity was reviewed. Although the application contained one reference with less than positive comments, the applicant qualified for licensure as a professional civil engineer. The individual's name has been included on the list for approval.

Exam Applications

Ms. Kramer reported that the Committee reviewed 13 applications submitted, along with course-by-course evaluations. Since the documentation submitted stated that the degrees awarded were not equivalent to degrees recognized by the Accreditation Board for Engineering and Technology (ABET), the Committee determined that an additional four years of qualifying work experience would be required to gain admission to the fundamentals of engineering examination pursuant to the OAR 820-010-0227(4).

Ms. Kramer also reported that the Committee reviewed an additional 4 applications submitted, along with course-by-course evaluations. In the documentation submitted for these applications, it was stated that the degrees awarded were not equivalent to engineering degrees. Therefore, the Committee determined that eight years of qualifying work experience would be required to gain admission to the fundamentals of engineering examination pursuant to the OAR 820-010-0227(6).

Ms. Kramer noted that the Committee reviewed an application for entrance to the civil professional engineering examination. According to the course-by-course evaluation submitted, the applicant's degree was not ABET equivalent. Therefore, the Committee determined that the individual may meet the requirements for the October 2008 examination pursuant to the OAR 820-010-0230(a).

Ms. Kramer noted that the Committee reviewed another application for entrance to the civil professional engineering examination. One of the references submitted with this application had less than positive comments. However, the Committee determined that the individual would qualify for licensure as a professional civil engineer and was approved for entrance to the April 2008 examination administration.

Ms. Kramer briefly summarized a decision made by the Committee regarding an application for entrance to the Oregon 4-hour Land Survey Law examination. The applicant successfully completed the NCEES 7 hour professional land survey examination in 1992, but did not pass the state specific portion. Upon verification with the NCEES, the individual was notified that completion of the Oregon 4-hour Land Survey Law examination is required.

Ms. Kramer noted that the Committee reviewed an application for registration as a professional engineer by examination. The individual had sufficient experience; however, the minimum 4-years were not verified by a supervising professional engineer. After review of the information provided, Ms. Kramer stated that the Committee determined that the individual qualified for the professional mechanical engineer examination.

Ms. Kramer noted that the Committee reviewed an application for registration as a professional engineer by examination. An experience record was submitted demonstrating work experience gained from August 2001 through May 2006; however, it appeared to have been in conjunction with the education obtained. After a review of the information provided, along with a letter from the applicant's supervisor stating that the work experience and education were completely separate, it was determined that the applicant qualified for the professional civil engineer examination.

Re-Applications

Ms. Kramer reported that the Committee reviewed 10 re-applications from those who did not achieve a passing grade in their first and second written examinations. Of the 10 reapplications reviewed, 9 were admitted to the April 2008 examination, and 1 individual was required to elaborate on the information submitted.

Continuing Professional Development (CPD) Audit

Ms. Kramer reported that 364 individuals were requested to participate in the December 2007 Continuing Professional Development Audit. Of the 364 individuals audited, 69 did not respond to the initial request, and could be subject to license suspension pursuant to the OAR 820-015-0026(1). However, some of these individuals responded and information submitted was reviewed during the second meeting held on February 15, 2008. Of the initial 295 CPD records reviewed, 19 were found to be insufficient. Ms. Kramer noted that staff responded to those individuals accordingly. Ms. Kramer further summarized direction given to staff that should assist in ensuring efficient processing and review for future audits.

During the second meeting held on February 15, 2008, Ms. Kramer reported that the following matters were discussed:

Electrical and Computer Engineering

Ms. Kramer briefly stated that a memo was reviewed regarding the NCEES name change of the "Electrical" Engineering examination to read "Electrical and Computer" Engineering. The matter was forwarded to the Rules and Regulations Committee to revise the verbiage contained in the OAR 820-010-0450.

Review of Applications

Exam Applications

Ms. Kramer stated that the Committee reviewed a letter requesting a review of re-application for the April 2008 fundamentals of engineering examination administration, even though the re-application did not meet the postmark deadline. Since the applicant was admitted to the October 2007 examination based upon the OAR 820-010-0225(2), results for the October 2007 examination were not released until the Board office received the official transcript on January 14, 2008. Therefore, Ms. Kramer stated the Committee did not complete a review of the re-application since the application did not meet the postmark deadline.

Ms. Kramer noted that a request for admittance to the April 2008 fundamentals of land surveying examination administration was received. The applicant stated that, according to research, the

law only required 4 years of experience when the applicant began their surveying career. Regardless, the Committee determined that an applicant must qualify for examinations based upon the current rule at the time of application.

Ms. Kramer noted that an application and official transcripts were reviewed by the Committee for entrance to the fundamentals of engineering examination based upon the OAR 820-010-0225(3)(d). The individual provided additional documentation showing completion of the 6 of 9 subjects and was approved for entrance to the April 2008 examination.

Ms. Kramer reported that the Committee reviewed 6 applications submitted, along with course-by-course evaluations. Since the documentation submitted stated that the degrees awarded were not equivalent to degrees recognized by the ABET, the Committee determined that an additional four years of qualifying work experience would be required to gain admission to the fundamentals of engineering examination pursuant to the OAR 820-010-0227(4).

Ms. Kramer reported that the Committee reviewed an additional 6 applications submitted, along with course-by-course evaluations for both undergraduate and graduate degrees obtained. However, the documentation submitted stated that the undergraduate degrees awarded were not equivalent to degrees recognized by the ABET and the documentation stated that the graduate degrees obtained that did not comply with OAR 820-010-0225(3)(d). Therefore, it was determined that an additional two years of qualifying work experience would be required to gain admission to the fundamentals of engineering examination pursuant to OAR 820-010-0227(4).

Ms. Kramer briefly noted that the Committee reviewed 9 applications for entrance into the professional engineering examination. Based upon the review of information, the 9 applicants were approved for the April 2008 examination administration.

Ms. Kramer briefly noted that 3 applications for entrance into the fundamentals of engineering examination and 1 application for entrance into the fundamentals of land surveying examination were reviewed. Based upon the review of information, the 4 applicants were approved for the April 2008 examination administration.

Re-Applications

Ms. Kramer reported that the Committee reviewed 33 re-applications from those who did not achieve a passing grade in their first and second written examinations. Of the 33 reapplications reviewed, 30 were admitted to the April 2008 examination, and 3 individuals were required to elaborate on the information submitted.

John Lucey

Ms. Kramer noted that a request was made from John Lucey regarding his application for registration as a professional land surveyor by comity. According to the documentation submitted, Mr. Lucey does not meet the required 12 years of experience as qualification for licensure. Mr. Lucey successfully passed the Fundamentals of Land Surveying and Professional Land Surveying examinations in California; however, the requirements for entrance to the examinations are not substantially equivalent to the requirements of the State of Oregon. The Board determined that Mr. Lucey will be required to fulfill the requirement of 12 years of

experience, in addition to successfully passing the Oregon Land Survey4-hour Law examination for registration as a professional land surveyor by comity.

Continuing Professional Development (CPD) Audit

Ms. Kramer reported that the Committee reviewed information from 17 individuals who responded to the second notice regarding the December 2007 audit. Of the 17 CPD records reviewed, 4 were found insufficient and will be requested to submit additional information.

Licensure

Comity Applications – Ms. Kramer directed the members’ attention to the list of 85 applicants for licensure by Comity. It was moved and seconded (Kramer/Seward) to approve the list of 85 applicants as presented. The motion passed unanimously.

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

Ms. Kramer directed the members’ attention to the list of 52 applicants seeking Photogrammetry registration by prior practice. It was moved and seconded (Kramer/Seward) to approve the list of 52 applicants as presented. The motion passed unanimously. Ms. Lopez further informed the members that the application deadline has passed to receive applications for Photogrammetry registration by prior practice. However, due to the review process, those individuals lacking information to determine qualifications for registration may still be presented during the May Board meeting.

EXTERNAL RELATIONS COMMITTEE

Ms. Kramer reported that the External Relations Committee met on February 4, 2008, to discuss the following matters:

Oregon Examiner

Ironically, Ms. Kramer reported that she did not receive the Oregon Examiner. However, she has received the newsletter in the past. Ms. Lopez explained that the newsletter is distributed to the active registrants in the database. However, staff has been researching viable options for individuals to receive a “subscription” to the Oregon Examiner by email. Since this process is currently being researched, there will be another distribution of the newsletter by postal mail. Ms. Kramer directed the attention of the members to the topics that will be included in the Spring 2008 edition. After a few revisions, most of the articles were approved for inclusion. Staff will forward the article related to fire protection to the members for further consideration and review and the article related to disciplinary actions by other licensing agencies will be further discussed during the April meeting.

Website

Ms. Kramer stated that the target date to fully migrate the Web site to Oregon.gov was not attained. Additional review will be held during the meeting in April. There was no further discussion.

Outreach

Ms. Kramer reported that a presentation was given on January 9, 2008 at the OSU regarding the pathway of licensure to become a professional engineer in the State of Oregon. Mr. Seward complimented Ms. Meyer and Ms. Olson for their efforts and a great presentation.

Furthermore, another request has been received from the Oregon Department of Transportation (ODOT) to conduct a presentation on April 1, 2008 regarding the pathway of licensure to become a professional land surveyor in the State of Oregon. Board members were encouraged to volunteer their time and notify staff by March 21, 2008 of availability.

Informational

Ms. Kramer briefly noted that an email notification was sent regarding the February 18, 2008 television episode of Jeopardy. The episode included a category on Design Squad to celebrate National Engineers Week.

FINANCIAL REPORT

Mr. Tappert reported that the Finance Committee met on February 4, 2008, to discuss the following matters:

Review Chart of Accounts

Although included in the discussion held earlier regarding the audit, Mr. Tappert briefly summarized that the Committee will be working in cooperation with the CPA firm to revise the chart of accounts. The purpose of the restructure is to assist in the budgeting process and aide in the transparency of the Board finances.

Peachtree Software

Mr. Tappert briefly noted that the migration will occur this summer due to the current unavailability of the CPA firm.

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

LAW ENFORCEMENT COMMITTEE

In the absence of Mr. Linscheid, Mr. Seward reported that the Law Enforcement Committee met on February 6, 2008 to discuss the following matters:

Cases Reviewed

2396 – Catherine Nelson/Doug Spencer

2397 – Steve Cooley/Doug Spencer

Mr. Seward reported that the Committee discussed the sealing and signing process of the Oregon Department of Transportation (ODOT) as it relates to their standard drawings. The Committee noted that standards are used in the industry as a design framework for engineering components such as catch basins applicable to a variety of engineering projects. To seal a standard may

mislead the public to believe that the design is useful in all engineering applications, which may not be the case. However, to issue an unsealed standard drawing is also creating confusion. Regardless, the practice must be consistent.

President Laszlo reported that the Professional Practices Committee (PPC) previously discussed this issue with the ODOT personnel, including the ODOT “preliminary” disclaimer as early as February 2005. Advice given by the PPC dates back to the July – December 2004 timeframe regarding sighting distances for sign posts on bridges. Advice may have been also offered in 2003. As a result, the ODOT developed Policy 3 to address standard drawings:

ODOT Policy 3: The responsibility for proper selection and callout of standard drawings lies with the Professional-of-Record that references them on project specific plan sheets. A Standard Drawing is not to be certified when referenced by another project specific plan sheet and included in project plan sets. This practice provides a clear line of responsibility to the POR referencing the standard drawing as well as a clear line of responsibility to the technical owner of the drawing for the standard design methodology and integrity.

The ODOT maintains the original standard drawings with a reference. The ODOT applies a disclaimer to standard drawings before public distribution: *The selection and use of this Standard Drawing, while designed in accordance with generally accepted engineering principles and practices, is the sole responsibility of the user and should not be used without consulting a Registered Professional Engineer.* The professional engineer who incorporates a component from an unsealed standard drawing into their engineering is accepting the unsealed design as part of their sealed drawing. The engineer validates through their design reference and engineering seal that the standard drawing design component is applicable to their engineering work.

However, the Mr. Seward noted the broader discussion held by the Committee regarding the industry’s use of standard drawings. It appears that language contained the OAR 820-020-0621 to either require a seal and signature for “final document” or a “preliminary” notation for its non-final status is causing confusion. The ODOT standard drawings appear to be neither. To address this confusion, the Board may need to rework the rules in order to clarify the unique status of standard drawings. The Board closed its discussion on professional registrants who are employed with the ODOT and subject to their rules, but are also required by virtue of professional licensure to follow the laws and rules of the Board. It is imperative that the Board and the ODOT harmonize advice and rules. Staff was directed to continue researching past records to assist further Committee discussion.

2434 – Mark Mouser/William Garity

Mr. Seward reported that the complainant alleged that Mark Mouser engaged in the unlicensed practice of land surveying. However, it was found that Mr. Mouser actually completed the surveying during an earlier phase of the project for which he had already been investigated. To close case 2391, Mr. Mouser received a letter of concern regarding changes caused by Senate Bill 55 to the definition of land surveying in the Oregon Revised Statute (ORS), Chapter 672. It was moved and seconded (Seward/Tappert) to close case 2434 as “other.” The motion passed unanimously.

2454 – Carter Case/Oregon Board of Architect Examiners (OBAE)

Mr. Seward reported that a revoked architect, Carter Case, altered the engineering documents completed by a professional engineer. Through his attorney, Matthew Daily, Mr. Case agreed during an informal conference, to violations of the ORS 672.045(1) and (3) and to a civil penalty of \$1,000. He stated that the Committee reached a settlement agreement with Mr. Daily/Mr. Case that allowed two payments of \$500. However, there was a disagreement with the “low” civil penalty amount. Unfortunately, the amount assessed is at the statutory maximum. It was noted that the Committee member Grant Davis recused himself from the informal conference citing a potential conflict of interest. It was moved and seconded (Seward/Stuntzner) authorizing the Board President to sign the Settlement Agreement. The motion passed unanimously.

2459 – Nabil Taha/Anonymous

Mr. Seward summarized an anonymous complaint received alleging that a branch office operated by Nabil Taha was not compliant to the Board rules. That allegation was found unsubstantiated. However, further investigation revealed that the duties and title assignment of an engineer-in-training had been mischaracterized on the company’s Web site. During an informal conference, Mr. Taha explained the inadvertent nature of the violations and the immediate changes he made to correct errors. In light of these admissions, the Committee recommended a letter of concern. It was moved and seconded (Seward/Tappert) to issue a letter of concern. The motion passed unanimously.

2464 – Gordon Snyder/OSBEELS

Mr. Seward reported that the Committee held a discussion regarding Gordon Snyder using the title “RF Engineer” to sign engineering documents submitted to the City of Springfield in support of a T-Mobile application to construct and operate a wireless facility. The Committee discussed the exception under ORS 672.060(6) used by the T-Mobile attorney to argue that Mr. Snyder is not in violation of performing engineering work without registration. Staff was directed to conduct further investigation for additional discussion by the Committee during a future meeting.

2471 – Mark Chandler/Kimberly Johns

Mr. Seward summarized the discussion related to case 2471. Mark Chandler was a former Oregon-registered Naval Architecture and Marine Engineer who let his registration lapse more than five years. As a result, he was no longer authorized to offer or practice engineering in Oregon. However, Mr. Chandler is an Oregon resident who issued an engineering report to a client that also resides in the State of Oregon. The Committee approved issuing a Notice of Intent to Assess a Civil Penalty of \$2,000 for the unlicensed practice of engineering. It was also noted that the Board previously approved to add the naval architecture and marine engineering discipline to the OAR 820-010-0450.

2493 – Baynard Mentrum/Shelly Clark-Duquette

Mr. Seward reported that Baynard Mentrum, a registered architect, obliterated the seal and signature of a professional engineer and then submitted those documents to the City of Portland to support two townhome projects. The professional engineer was unaware that his calculations

had been modified and submitted to a permitting agency. The Committee determined that as a licensed architect, Mr. Mentrum may fall under an exception in the ORS 672.060(1). As a result, the Committee approved to forward the complaint to the Oregon Board of Architect Examiners (OBAE) to determine if Mr. Mentrum was practicing architecture. It was noted that the case will remain open until further communication with the OBAE is received.

Mr. Seward reported no discussion on Closed Cases Subject to Monitoring, Closed Cases Subject to Collections, and Case Status Report.

PROFESSIONAL PRACTICES COMMITTEE

Mr. Tappert reported that the Professional Practices Committee met on February 4, 2008, to discuss the following matters:

Planner's Report

Mr. Tappert summarized the discussion held regarding a letter received about a variance applied for to the City of Wheeler. The individual opined that the City Planner may have engaged in the practice of engineering by citing engineering requirements. After a review of the letter and the report submitted, the Committee discussed the recommendations made by the City of Wheeler planning staff that were included in the report. Mr. Tappert stated that the Committee responded noting that a recommendation to require engineering reports is not the practice of engineering.

Report on Four Seasons

Mr. Tappert reported that the Committee received an email inquiry with an attached report regarding the Four Seasons Condominiums Building Envelope Condition Assessment located in Portland. It was noted that the report was not stamped by either a professional engineer or a registered architect. The inquirer asked if the report constitutes the practice of engineering under ORS 672.005. Mr. Tappert stated that the Committee reviewed and discussed the information contained in the report, then determined that the recommendations were intended to bring the building into compliance with existing codes; therefore, not the practice of engineering as defined in ORS 672.005 or 672.007. However, the information submitted was forwarded to the Oregon Board of Architect Examiners (OBAE) and the Construction Contractor's Board (CCB) in the case that concerns may be found under their authority.

ACEC Oregon Questions

Mr. Tappert briefly summarized the discussion held related to several questions received about resident engineer requirements. He reported that the Committee referred the inquirer to the OAR 820-010-0720. AAG Tucker-Davis noted that she is currently conducting research on the legislative history of the ORS 672.050 that refers to a nonresident engineer. AAG Tucker-Davis further noted that the ORS 672.050 was enacted in 1930 when the requirements were substantially different.

Q+E – DCBS Protest

Mr. Tappert summarized a discussion held regarding a protest letter sent to the Department of Consumer and Business Services (DCBS). The protest letter was in response to the Request for Proposal #DCBS 1007003 – Auditing Certified Third Party Agency Inspections. Mr. Tappert

reported that the Committee reviewed the Request for Proposal and determined that the scope of work provided appeared to be focused on ensuring that third-party agencies would operate in compliance with State Building Codes.

Survey Crews

Mr. Tappert reported that the Committee received an email from a Labor Compliance Officer with the ODOT Office of Civil Rights. Several questions were posed regarding the members of a survey crew and what level of professionalism they may be considered. Mr. Tappert did note that a similar question was asked during the June 16, 2006 meeting regarding the prevailing wage for certain positions on a survey crew considered laborers by the Oregon Bureau of Labor and Industries (BOLI). He also stated that similar to the questions posed in 2006, the Board does not have any authority of the labor designations. However, the definitions of professional land surveyors, technician work and acts that constitute the practice of land surveying found in the ORS 672.002, 672.005, 672.007, 672.025, and OAR 820-010-0010 were provided in the response.

RULES AND REGULATIONS COMMITTEE

Mr. Davis reported that the Rules and Regulations Committee met on February 4, 2008, to discuss the following matters:

OAR 820-010-0255 – References

Mr. Davis briefly reported that the Committee is discussing draft rules related to the reference requirements. The Committee felt that it may not be clear to the applicant of the reference requirements. Furthermore, the types of references and the number of references an applicant must provide will depend on the type of application. Further discussion will be held during the April meeting.

OAR 820-010-0305 – Fees

Mr. Davis briefly summarized the discussion held regarding the structure of the fees outlined in the OAR 820-010-0305. He reported that further discussion and review will be held to revise the rules and clearly illustrate the proper fee required with applications.

OAR 820-010-0225(2) & OAR 820-010-0226(2) – Educational Qualifications

Mr. Davis directed the member's attention to draft revisions to the OAR 820-010-0225(2) and the OAR 820-010-0224(6). The proposed rules include language for applicant's applying to the Fundamentals of Engineering (FE) or Fundamentals of Land Surveying (FLS) examinations based upon completing a graduate degree. It was moved and seconded (Davis/Tappert) to begin the rulemaking process. The motion passed unanimously.

Apostille Requests – Process and Fee

Mr. Davis reported that the Committee discussed the process for staff to complete notarization requests for an apostille. In order to complete a request, staff will issue a wall certificate (\$35.00), complete the verification (\$15.00), and complete the notarization (\$5.00) for a total of \$55.00. The fee will be contained in the OAR 820-010-0305 – Fees as "Verification of

Certification and Notarization.” However, as previously stated, the Committee will further discuss the fee structure during the April meeting.

Committee Mission and Goals

Mr. Davis reported that the members reviewed the mission and goals of the Committee. There was no further discussion.

Legislative Action

Mr. Davis directed the member’s attention to the list of issues for legislative action. The list included the following:

- ORS 672.028 – include requirement for a RPP Seal
- ORS 672.045 – include RPP
- ORS 672.050 – employment by nonresident
- ORS 672.060(10) – currently exempts the OSBEELS registrants
- ORS 672.095 – include RPP
- ORS 672.??? – Qualifications for photogrammetry examination; rule; form of examination
- ORS 672.155 – include RPP
- ORS 672.180 – include RPP
- ORS 672.200 – include RPP
- ORS 672.310 – include RPP

Although most issues would be considered housekeeping to include language related to the practice of photogrammetry, Ms. Lopez noted the usual deadline to submit legislative concepts happens early in the month of April. A brief discussion was held regarding the matters being considered for legislation. Staff will confirm the deadline to submit legislative concepts.

UNFINISHED BUSINESS

As a result of the Rules Hearing held at 1:00 p.m., discussion was held regarding the clarification of the new fees. It was noted that the rules would be filed on Wednesday, March 12, 2008. Therefore, effective with applications postmarked on Thursday, March 13, 2008 or later, the new fees apply. Additionally, it was determined that the new renewal fee is effective for all payments submitted for the June 2008 renewal period.

ADJOURN

The meeting was adjourned at 4:35 p.m.

NEXT MEETINGS

Next Board Meeting:

May 13, 2008

Next Committee Meetings:

LAW ENFORCEMENT:

Tuesday, April 9th at 9:00 a.m.

RULES & REGULATIONS:

Wednesday, April 10th at 8:00 a.m.

PROFESSIONAL PRACTICES: Wednesday, April 10th at 10:00 a.m.
Joint R&R/PP: Wednesday, April 10th at 12:00 p.m.
FINANCE: Wednesday, April 10th at 1:00 p.m.
EXTERNAL RELATIONS: Wednesday, April 10th at 1:30 p.m.
EXAMINATIONS & QUALIFICATIONS: Wednesday, April 10th at 2:00 p.m.