



Oregon

State Board of Examiners for
Engineering & Land Surveying
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Minutes of Meeting
January 14, 2014

CALL TO ORDER

President Tappert called the meeting to order at 9 a.m. in the conference room of the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) office at 670 Hawthorne Avenue, SE Suite 220, Salem, Oregon 97301.

ROLL CALL

Members present:

Carl Tappert
William Boyd
James Doane
Shelly Duquette
Ken Hoffine
Jason Kent

Members Excused:

Steven Burger
Anne Hillyer
Sue Newstetter
Ron Singh

Others Present:

Mari Lopez, OSBEELS Administrator
Jenn Gilbert, OSBEELS Executive Assistant
Katharine Lozano, Assistant Attorney General
Joy Pariante, OSBEELS Social and Communications Media Specialist
Michael Hardy, Professional Engineers of Oregon (PEO)

PUBLIC INPUT

There was no public input.

BOARD CONSENT AGENDA

It was moved and seconded (Doane/Duquette) to approve the consent agenda containing the following:

- Approval of January 14, 2014 Board Agenda
- Approval of November 12, 2013 Board Meeting Minutes
- Approval of December 13, 2013 Special Board Meeting Minutes
- Approval of December 13, 2013 Oregon Specific Examinations Task Force Meeting Minutes

- Approval of December 13, 2013 External Relations Committee Meeting Minutes
- Approval of December 13, 2013 Finance Committee Meeting Minutes
- Approval of December 13, 2013 Professional Practices Committee Meeting Minutes

The motion passed unanimously.

AAG Lozano suggested edits to the following minutes for accuracy and clarity:

- December 13, 2013 Examination and Qualifications Committee Meeting Minutes
- December 13, 2013 Rules and Regulations Committee Meeting Minutes
- December 12, 2013 Law Enforcement Committee Meeting Minutes

It was moved and seconded (Doane/Duquette) to approve the above minutes, as amended. There was no further discussion. The motion passed unanimously.

ADMINISTRATOR’S REPORT

Additional discussion was held on the following matters:

Administrative Activities

Oregon Specific/National Council of Examiners for Engineering and Surveying (NCEES) Examinations

Ms. Lopez reported that the October 2013 FE, FLS, PE and PLS examination scores have been sent to examinees – with the exception of the Acoustical Engineering examination. Those results have not been received. Ms. Lopez noted that this is a violation of the Oregon Specific Examination Policy. President Tappert inquired about options to deal with this issue. Mr. Hoffine said it’s very difficult to determine appropriate action to take against a volunteer exam developer. Ms. Duquette asked if the delay in grading was a result of the previously discussed issue of having too few team members. Ms. Lopez said the Acoustical team has increased in size and the team’s liaison to the Board attributed the delay to the holidays. Ms. Duquette said when she was grading the Washington Structural III Examination, the holidays would often cause grading to last into February. However, she noted, there were more than 200 of those examinations to grade, as opposed to four. Mr. Hoffine asked if there was some type of incentive the Board could use to encourage compliance among its volunteers. Ms. Duquette pointed out that members of the exam development teams can already claim their time spent on the exam as professional development hours. Ms. Lopez said the Board can monetarily reimburse volunteers, but then they can’t claim the time towards professional development. Ms. Duquette said examination grading was the best professional development activity in which she has ever participated. She said it was consistently a great learning experience, despite the high-volume of work.

The Board inquired if Staff have had any recent issues with any of the other Oregon specific exam teams. Staff said there have been no issues with Land Surveying or Forest Engineering. AAG Lozano said, from an outside perspective, if exam development continues to be an issue, the Board may need to consider discontinuing those exams. Ms. Lopez noted that Traffic Engineering ceased being a discipline examined by the Board for that exact reason. Mr. Hoffine said development for the Forest and Acoustical Engineering exams is difficult because of the small amount of registered professionals in those disciplines in Oregon. Additionally, there are no associated college programs to provide a bank of potential volunteers – in the form of students who become registered professionals or registered professionals who are instructors. Ms. Duquette suggested having a group grading session for the entire exam development team to

encourage timely completion of grading. The costs of the group meeting could be reimbursed, as per the Oregon Specific Examination Policy. Mr. Tappert suggested Staff contact the Acoustical Engineering exam development team to find out the cause of the delay and discuss options to remedy the situation. Ms. Lopez said she would call the Board liaison regarding these issues. There was no further discussion.

City of Hillsboro

Ms. Lopez reported that the City of Hillsboro was interested in obtaining information regarding registrants in Oregon for use in the city's ePermitting process. She said the data request is similar to the information provided through the Board's Find a Licensee feature on its website, except Hillsboro would like real-time data updates. Currently, the Find a Licensee database is updated weekly.

President Tappert asked what it would take to grant this request. Ms. Lopez said there would have to be some sort of secure access option coordinated between the Board and the City.

President Tappert asked if the City of Hillsboro could have code written to search the information already made available through the Board's website. Ms. Lopez said the issue is in the frequency of database updates. AAG Lozano asked if email addresses of licensees were included in the information to be shared. This is a concern, as email addresses are exempt from public disclosure under Oregon Public Records law as of January 2014. Ms. Lopez said some fields can be removed from the data released.

Mr. Hoffine asked what the Board's policy has been regarding these requests from other cities.

Ms. Lopez said this is the first such request received. However, the Board does have a data sharing agreement with the Building Codes Division (BCD) for their ePermitting system and with Department of Justice for child support payment tracking. President Tappert pointed out that ePermitting will be used far more frequently in the future and it behooves the Board to ensure that registration information is available during this process. AAG Lozano noted that, eventually, all ePermitting may need to be done through BCD. Currently, the City of Hillsboro appears to be running their e-permitting parallel to the BCD process.

President Tappert asked how denying Hillsboro's request would impact future city requests.

AAG Lozano said, if Hillsboro is approved, there's a good chance other cities would follow.

Ms. Duquette noted that there is already a functioning system in place through BCD with a link to OSBEELS' data. Mr. Boyd asked why Hillsboro wasn't using BCD's system. Ms. Lopez said because Hillsboro wanted real-time updates and she wasn't sure if BCD's procedures supported that request. Mr. Boyd noted that, when he worked for the Construction Contractors Board (CCB) information was pulled from other agencies onto its internal databases on a nightly basis and organizations could access the compiled data from the CCB database.

Additionally, BCD directed the City of Hillsboro to get permission from OSBEELS to access its data. After discussion, the Board directed Staff to inform the City of Hillsboro of the procedures in place for accessing OSBEELS registrant information through BCD and to grant the city permission to access OSBEELS data through the BCD system. There was no further discussion.

Oregon State Board of Geologist Examiners (OSBGE)

Ms. Lopez reported that OSBGE has submitted a series of guidance documents regarding engineering geology for the Board's review and comment. These documents were discussed during the October 10, 2013 Joint Board Meeting between OSBGE and OSBEELS. The intent of these documents is to clarify issues with areas of overlap between engineering and geology.

The Board determined to send these documents to the Professional Practices Committee (PPC) for review. There was no further discussion.

Staffing

Payroll

Ms. Lopez reported that the transition to the Oregon State Payroll System (OSPS) was successful. The transition took less than two weeks due to OSBEELS, although semi-independent, continuing to use the state classification and compensation plans and the statewide policies for leaves and accrual time. OSPS will now record and track salaries; merit increases; COLAs; payroll deductions; vacation, sick personal, discretionary, Governor's Day and other leaves and accrual time for all employees.

Ms. Lopez also reported that she has been researching fingerprint web-based time clock systems. She said she has reached out to the Board's IT contractor for additional information. Mr. Doane asked if the time clock is a state requirement. Ms. Lopez said it is not and the state agencies she reached out to do not use a time clock. However, Ms. Lopez said she thought it would be effective to implement a time clock system since the office has transitioned to OSPS. She said it would alleviate the additional work Ms. Gilbert is tasked with regarding tracking everyone's hours for use when validating employee-completed timecards at the end of the month.

Mr. Hoffine suggested using department heads among Staff to keep track of the time of individuals in their section. Ms. Lopez said there are no department heads at OSBEELS. AAG Lozano said her office relies on the receptionist to track when people arrive and leave. She said the receptionist sends a "who is in, who is out" report to staff members each day. The receptionist also tracks breaks and appointments so calls can be properly routed if the staff member is away from their desk.

Mr. Doane said the concept of implementing a time clock in a professional environment seems disrespectful and it sends the message that management doesn't trust its employees. President Tappert agreed with Mr. Doane and said the use of a time clock in a professional workplace is unusual.

Mr. Hoffine asked if there is any tracking system currently in use. Ms. Gilbert said she tracks calls and emails from employees regarding leave or sick time and tracks when employees arrive and leave the office. She explained that she compares her notes to the employee-completed timecards at the end of the month and works with the employee to resolve any discrepancies.

Mr. Boyd said when he had a staff of 14, he would periodically walk around the office to ensure everyone was at work and engaged. Ms. Duquette asked if weekly or biweekly timecards were an option to avoid reporting discrepancies stemming from employees forgetting when they did and did not work by the end of the month when timecards are due. Mr. Kent said he's worked in offices where computer software is used to track employee attendance and it also generates a "who is in, who is out" report, similar to the one AAG Lozano mentioned.

Mr. Kent asked Ms. Lopez what issue she is trying to resolve through time clock punches. Ms. Lopez said there were a number of issues with employee hours. For example, she said one employee has been taking multiple afternoon breaks although he is only authorized a 15-minute break in the afternoon. Mr. Boyd said he dealt with a similar situation with an employee abusing breaks and coming to work late. He said he sat down with the employee and developed a plan to improve performance. He said following the protocol set by the state for dismissing an employee was a long process, but it allowed him to exhaust all options before firing the employee. AAG Lozano pointed out that, as a semi-independent agency with at-will, non-union

employees, OSBEELS doesn't have nearly as extensive of a process for terminating an employee.

Ultimately, President Tappert reminded members that personnel administration affairs are not part of the Board's role. He said actions pertaining to OSBEELS Staff are Ms. Lopez's responsibility and the choices are hers to make. He added that discussing the time clock was merely Ms. Lopez updating the Board on potential administrative actions. There was no further discussion.

HR Services

Ms. Lopez reported that Staff recently received the second draft interagency agreement for recruitment services from the DAS Enterprise HR Services. The recruitment services would include collaboration with OSBEELS management to create and carry out all phases of employee recruitment and selection processes, including development of recruitment and advertising, outreach services and employment opportunity announcements. There was no further discussion.

Miscellaneous Topics

Ms. Lopez reported that the construction of the new filing room at the Board office was complete and all folders and documents have been filed. Mr. Doane commented on Ms. Lopez's excellent negotiation skills that allowed the Board office to obtain more useable space and undergo renovations for only a slight increase in rent.

Mr. Boyd asked if Staff had considered imaging all of the files being stored at the Board office. Ms. Lopez said it has been discussed before and it is one of management's long-term plans, however, database updates would be necessary because the current system wouldn't be capable of processing that amount of information. There was no further discussion.

Action Items

March 2013 – Complete CA Geotechnical examination contract and Certified Water Right Examiner MOU

Ms. Lopez reported that she is still negotiating the terms of the contract with California for use of the Geotechnical Engineering examination. AAG Lozano explained that the California contract draft with OSBEELS included a type of indemnity clause typically used for private 3rd party contractorss. However, Oregon state agencies are prevented by the Oregon Constitution from entering into contracts with this type of indemnity clause. Additionally, Ms. Lopez reported that the Certified Water Right Examiner MOU was complete. There was no further discussion.

PRESIDENT'S REPORT

President Tappert reported that he participated in the NCEES Foreign Experience Task Force meeting in December 2013. The charge of the Task Force was to look into ways of standardizing the way member boards evaluate experience gained in foreign countries. He said the discussions focused on engineers, as there don't seem to be as many foreign surveyors applying for licensure.

President Tappert explained that, overall, there are three main classifications of foreign experience:

- Work done under the supervision of an engineer licensed through an NCEES jurisdiction

- The Task Force agreed that this work was qualifying.
- Work done under the supervision of an engineer licensed by a foreign country
 - The Task Force recommended building a database of the licensure requirements of other countries to allow member boards to determine substantial equivalency of supervision before considering the work.
- Work done without the supervision of a licensed engineer
 - The Task Force did not make a determination in this situation. It was considered to be very similar to the industrial exemption.

As a result of the Task Force meeting, President Tappert reported that there will be two motions proposed at the 2014 NCEES Annual Meeting. The first is to develop a database of the licensure requirements of other countries and the second is to develop a database of foreign individuals who have applied for licensure in the U.S. There was also discussion of developing a database of state requirements to allow foreign applicants to compare states based on licensure requirements.

President Tappert said NCEES meetings are interesting because of the differing viewpoints between member boards and NCEES. He noted that member boards are required to consider every issue as it related to the life, health and safety of the public, whereas NCEES is not. Ms. Duquette agreed and described how she was part of discussions when NCEES wanted to condense the structural examination into a one-day event. She said that type of change to the exam has the potential to lead to a number of life/safety concerns. There was no further discussion.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

In the absence of Mr. Burger, President Tappert reported that that EQC met on December 13, 2013 and discussed the matters contained in the Committee minutes. It was moved and seconded (Duquette/Boyd) to approve the Consent Agenda containing the following:

- Approve Mr. Sachse's request to allow his October 2011 FE examination results to remain valid.
- Approve Mr. Wear's request to allow his FE examination results to remain valid.
- Deny Mr. Rytkonen's request to amend OAR 820-010-0219.
- Approve Mr. Bannister's application for registration as a civil engineer by comity.
- Approve Mr. Boyt's application for registration as an electrical engineer by comity.
- Approve Mr. Walther's application for registration as an electrical engineer by comity.
- Approve Mr. Mochida's request for a waiver of the requirements in OAR 820-010-0205(2)(b)(A) and OAR 820-010-0230(1)(a).
- Deny Mr. Rao's request for a waiver of the requirements in OAR 820-010-0204(2)(b)(A) and OAR 820-010-0230(1)(a).
- Deny Mr. Yang's request for a waiver of the education or experience requirements.
- Deny Mr. Paul's application for the FLS examination based on non-compliance with OAR 820-010-0226(3)(d).
- Deny Mr. Porter's application for the FLS examination based on lack of registered references verifying required experience.
- Approve Ms. Applauso's reapplication for the civil PE examination.
- Approve list of applicants for registration by comity.
- Approve list of applicants for registration by 1st registration.

The motion passed unanimously.

Additional discussion was held on the following matters:

Joint Service Transcripts (JST)

President Tappert reported that the EQC had discussed allowing current or former military members to submit JSTs, which serve as a translation of their military education and experience to college credits. AAG Lozano pointed out that it is similar to the NCEES Credentials Evaluation used for non-accredited degrees. Mr. Boyd asked for additional information about the evaluation process. Ms. Pariente explained that teams of military members and civilian professors, overseen by the American Council on Education (ACE), observe and evaluate military schools and offer a transcript reflecting how the skills learned at those schools would translate to college credits.

It was moved and seconded (Boyd/Doane) to begin the rulemaking process for OAR 820-010-0227 and OAR 820-010-0228, to include JSTs when evaluating an applicant's education and experience.

Ms. Duquette asked if there was additional evaluation done regarding the courses included on these transcripts or if Staff just accepted the ACE assessment. President Tappert said applicants using JSTs will still be reviewed on a case-by-case basis, as are all individuals applying with anything other than an accredited degree. There was no further discussion. The motion passed unanimously.

Joshua Breen's examination results

Mr. Breen requested the Board allow him to enroll as an EIT, based on an error in Oregon State University's processing of his affidavit of degree completion. Mr. Breen's affidavit was received after the September 1st deadline, voiding his results. He claimed the delay was caused by his affidavit request being mixed with requests from students who would complete their degree following summer courses. Mr. Breen stated that his degree was completed June 2013, in advance of the deadline. Staff requested official confirmation of his statement from OSU. A packet of information was received from Mr. Breen, but did not contain official confirmation from OSU. The EQC will further discuss Mr. Breen's situation during the February 2014 meeting. There was no further discussion.

OREGON SPECIFIC EXAMINATIONS TASK FORCE

In the absence of Ms. Newstetter, Mr. Doane reported that the OSETF met on December 13, 2013 and discussed the matters contained in the Committee minutes. It was moved and seconded (Doane/Duquette) to approve the Consent Agenda containing the following:

- Approve the amended Acoustical Engineering examination syllabus.
- Reaffirm the Oregon Specific Land Surveying Examination team, per Oregon Specific Exam Policy, Section 3(c).

The Board noted that the team presented for the Oregon Specific Land Surveying Examination was the same team used successfully last year. There was no further discussion. The motion passed unanimously.

EXTERNAL RELATIONS COMMITTEE

Mr. Doane reported that the ERC met on December 13, 2013 and discussed the matters contained in the Committee minutes. Mr. Doane noted that the social media updates given during the ERC meetings are very informative and interesting, particularly the information on age, demographics and usage trends. It was moved and seconded (Duquette/Doane) to approve the Consent Agenda containing the following:

- Approve the **Historic Columbia River Highway showcases revolutionary engineering** article for inclusion in the Winter 2014 *Oregon Examiner*.
- Approve the **New Board member – Jason Kent** article for inclusion in the Winter 2014 *Oregon Examiner*.
- Approve the **Consequences of failure to pay civil penalties** article for inclusion in the Spring 2014 *Oregon Examiner*.
- Approve the **Obligation not to engage in unprofessional behavior** article for inclusion in the Spring 2014 *Oregon Examiner*.

There was no further discussion. The motion passed unanimously.

FINANCE COMMITTEE

Mr. Hoffine reported that the FC met on December 13, 2013 and discussed the matters contained in the Committee minutes. The Board members again mentioned the quality work done by Staff in successfully completing the office renovations and negotiating a new lease agreement. There was no further discussion.

LAW ENFORCEMENT COMMITTEE

President Tappert reported that the LEC met on December 12, 2013, to discuss the matters as contained in the Committee minutes. It was moved and seconded (Doane/Boyd) to approve the consent agenda containing the following:

- Final Orders
 - 2740 – Yukimasa Aizawa – Civil penalty of \$3,000
 - 2751 – Adrian Bartle Pearmine – Civil penalty of \$750
 - 2754 – Glenn William Case – Civil penalty of \$2,000 and a 90-day suspension
 - 2772 – Leonard W.W. Cook – Civil penalty of \$250
 - 2774 – Ryan B. Mitchell – Civil penalty of \$250
 - 2779 – David Allen Loomis – Civil penalty of \$750
 - 2851 – Scott T. Ogren – Civil penalty of \$500
- Additional Action Items
 - 2748 – James William Colton – Close case as allegations unfounded
 - 2775 – Michael E. Brown – Close case with a Letter of Concern
 - 2783 – Ralph Edward Dunham – Close case as allegations unfounded
 - 2854 – John Alfred Arscott – Close case as compliance met

The motion passed unanimously.

There was additional discussion regarding the following matters:

2743 – Timothy W. Bardell/OSBEELS

President Tappert suggested his fellow Board members review the case summary for Mr. Bardell, as it is an ongoing case. Ms. Duquette clarified that she should have emphasized that a structural engineer was not needed for the project in Hermiston because it is not a high seismic

area. However, another project on which Mr. Bardell determined lateral forces was in a high seismic area and would have required a structural engineer, which Mr. Bardell is not. The Board considered that Mr. Bardell was aware that he couldn't perform the structural engineering in question because he stated that he was uneasy about stamping the project. However, Mr. Bardell currently sees no issue with the structural engineering tasks he performed. There was no further discussion.

2697 – Dale LaForest/Matthew Steele

President Tappert also called the Board's attention to Mr. LaForest's case. He said the situation in question is worth reading about, but he isn't sure about where this case will go in the future, as the Board has recently been unable to locate or contact Mr. LaForest. There was no further discussion.

Staff update: Mr. La Forest contacted Board Staff regarding his NOI. He submitted a Public Records Request to receive documentation from his case file to prepare his defense. AAG Lozano informed Mr. La Forest that his case file was available to him upon discovery, which is separate from a Public Records Request. There has been no additional correspondence received from Mr. La Forest by Board Staff.

2782 – Ralph Edward Dunham/OSBEELS

President Tappert said this case gave the Board and Staff an opportunity to take a closer look at some rules to determine if the language in the rule was in agreement with the intention of the rule. Mr. Hoffine asked if AAG Lozano would be reviewing the rules involved in this case. AAG Lozano said these rules will be discussed during the Rules and Regulations Committee meeting in February. Ms. Duquette suggested clearer language in notification letters to registrants, as well. Board members also suggested drafting an article for *The Oregon Examiner* to explain to registrants that an unpaid delinquent fee results in the registration being placed in delinquent status. There was no further discussion.

2845 – Timothy Wolden/OSBEELS

President Tappert informed the Board that Staff had obtained the additional information requested by the Committee and it didn't contradict any of the initial information presented. The Committee had discussed that the \$8,000 suspended civil penalty from the violated settlement agreement should be payable immediately. Additionally, an additional \$2,000 civil penalty and registration suspension or revocation were discussed. The terms of the Notice of Intent will be discussed during the February LEC meeting. There was no further discussion.

PROFESSIONAL PRACTICES COMMITTEE

Ms. Duquette reported that the PPC met on December 13, 2013 and discussed the matters contained in the Committee minutes. There was additional discussion regarding the following matter:

AAG Opinion OP-2013-4

The Board entered into executive session pursuant to ORS 192.660(2)(f) to review records not subject to public disclosure. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting.

Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.

Ms. Duquette explained that this AAG opinion pertains to an interpretation of ORS 215.080 regarding entry onto land by professional land surveyors for county work. It was moved and seconded (Boyd/Duquette) to waive privilege on AAG Opinion OP-2013-4, received November 6, 2013, to send a copy of the opinion to the individual who initially raised the question to the Board regarding this statute, to make the full opinion available to any interested party and to address the details of the opinion in a future article in *The Oregon Examiner*. There was no further discussion. The motion passed unanimously.

Software Engineering

Ms. Duquette briefly addressed a written submission from an interested individual regarding the Board's consideration of adding software engineering as a regulated discipline. She said Staff were directed to inform the individual that this issue is still in the discovery phase and there would be many opportunities for the public to voice their opinions in the future. She explained that the Committee sees situations where regulation of software engineering would be needed, however, defining the scope and determining how to regulate it are hurdles that need to be addressed. AAG Lozano added that the available examination may not fit the scope of software engineering, as yet to be determined by the Board. Ms. Lopez mentioned that she has surveyed other boards regarding software engineering licensure. A few state boards are offering the NCEES software engineering examination, but few individuals are taking the exam. There are also boards that offer the exam, but do not license based on discipline. There was no further discussion.

Digital Signatures – Carl Tappert

President Tappert noted that he believes he was off-base regarding his question about copies of stamped bids being posted online. Previously, the Board had determined that an online document that is a scanned version of a stamped final document is considered a copy of that final document, not a digitally signed final document. President Tappert withdrew his question. There was no further discussion.

Questions Regarding a Postcard – Robert Demers, Jr.

AAG Lozano reminded the Board that when a question is asked regarding the application of OSBEELS rules and statutes to a specific situation, it is a petition for a declaratory ruling – even if the question is not labeled as such. She added that, if the Board makes a declaratory ruling, that decision is legally binding for both parties. She said the Board always retains the option to refuse to respond to such questions or requests. There was no further discussion.

Dust Control Plan – Adam Barber

Ms. Duquette reported that the Committee determined to bring a question regarding professional engineers developing dust control plans to the full Board for discussion to utilize the knowledge and experience of the Board's civil engineer members. Ms. Duquette noted that she would consider dust control under the same umbrella as erosion control, which requires a professional engineer. President Tappert said that, depending on the size of the site and the level of incorporation of engineering activities into the erosion control plan, a professional engineer may not always be required.

AAG Lozano noted that the question posed by Mr. Barber is actually asking for the opposite determination – he is wondering if a professional engineer is allowed to develop a dust control plan, not if one is required. President Tappert said he believed that a professional engineer would be capable of developing a dust control plan. Mr. Boyd pointed out that many professional engineers may not have the knowledge required to create such a plan. Ms. Duquette noted that having the required knowledge falls under the statutory requirement that engineers only practice within their area(s) of competence. The Board directed Staff to inform Mr. Barber that professional engineers may only practice within their area(s) of competence and, if that includes dust control measures, they can develop a dust control plan. There was no further discussion.

Electronic Documents – A Draft Interpretative Guideline (WA)

Ms. Duquette informed the Board that a task force may be needed to update the Board's guidelines for registrants regarding digital signature requirements. Ms. Lopez said Kristi Nelson from HDR directed her to a copy of Washington's Draft Interpretative Guidelines for use of digital signatures because of concerns regarding outdated information provided on the OSBEELS website. It was noted that the current information available from OSBEELS on this topic was drafted in 2008 by Ron Singh, who is now a Board member. Mr. Kent asked what would be the intended end result of creating a digital signatures task force. Ms. Duquette said the task force would be responsible for generating updated guidelines for the use of digital signatures by registered professionals. President Tappert added that, if necessary, drafting rule changes may also be a task force responsibility. Mr. Kent and Mr. Boyd volunteered to serve as members of the task force. The Board determined to also request Mr. Singh's participation on the task force. There was no further discussion.

RULES AND REGULATIONS COMMITTEE

Mr. Hoffine reported that the RRC met on December 13, 2013 and discussed the matters contained in the Committee minutes. There was additional discussion regarding the following matters:

OAR 820-010-0417 – Nature of Examination for Structural Engineers

Ms. Duquette was concerned about this rule. She asked if a structural who had completed the bridges portion of the structural examination could be allowed to construct buildings. She explained that the examination still incorporates separate bridges and buildings questions on both days of the examination. President Tappert asked if an examinee could answer questions on both bridges and buildings. Ms. Duquette said she wasn't sure if mixing the categories was an option, but she said she would ask NCEES for clarification.

Mr. Boyd said engineers are still required to practice within their area of competence, so individuals with a background in bridges shouldn't be designing buildings, regardless of which portion of the examination is allowable under OSBEELS rules. Ms. Duquette noted that the structural examination contains a number of general questions pertaining to buildings that examinees must answer, regardless of which specialty area they choose during the afternoon portion. She also added that a structural engineer is not required to design a bridge.

It was moved and seconded (Hoffine/Duquette) to begin the rulemaking process for OAR 820-010-0417. There was additional discussion.

Staff noted that completion of the bridges portion of the structural examination does not meet the

examination requirements for licensure as a structural engineer in Oregon. Oregon examinees do not have the option to take the bridges portion of the NCEES structural examination. Ms. Lopez noted that this causes an issue when determining substantial equivalency of comity applicants who took the structural examination outside of Oregon. She explained that the concern is how to address applicants for structural engineering licensure in Oregon who did not take the buildings portion of the examination. President Tappert reminded the Board that additional information can be gathered and potential issues addressed during the rulemaking process. He added that any necessary changes can be made prior to Board adoption of the rule. There was no further discussion. The motion passed unanimously.

OAR 820-010-0217 and OAR 820-010-0219

It was moved and seconded (Boyd/Duquette) to move the temporary versions of OAR 820-010-0217 and OAR 820-010-0219 into the permanent rulemaking process. For Mr. Kent's benefit, as it was his first Board meeting, AAG Lozano explained that the changes to this rule are to remove designated application and examination windows for computer-based testing. After adoption of these rules, it was discovered that there is no way to enforce when candidates sit for the examination once they've been approved. NCEES allows candidates to take the examination at any time within 12 months after OSBEELS has approved their application. There was no further discussion. The motion passed unanimously.

UNFINISHED BUSINESS

Modifying Designs and Documents

President Tappert updated the Board members on the results of the first meeting of the OSBEELS/Oregon Board of Architect Examiners (OBAE) Modifying Designs and Documents Task Force. For Mr. Kent's benefit, President Tappert explained that this rule has undergone a number of revisions to allow for changes to be made by engineers to a registered architect's documents without violating OBAE rules. President Tappert reported that the Task Force had agreed upon draft language for the rule and, if both Boards are amenable to the draft, rulemaking can begin.

Mr. Boyd asked if the engineer is clouding the area of change on the original documents to inform users of a change. President Tappert said that was the key area of contention with OBAE. OBAE's stance was that their rules prohibit markings of any kind on original documents that have been signed and sealed by a registered architect. Mr. Boyd asked how engineers would indicate amendments. President Tappert said it would be a one-way reference – the new drawing would reference the original, but there would be no notations on the original referencing the new drawing. Mr. Boyd said that leaving no indication on the original plans that there has been a change sounds like an invitation to disaster. Mr. Hoffine asked if the proposed procedure was in the best interests of the public, in regards to safety. Mr. Boyd said he didn't think any lawyer could possibly think that this concept compliant with public safety requirements. Mr. Doane added that the proposed procedure could lead to significant versioning problems in the design documents.

Ms. Duquette explained that OBAE's rules seem to be in place to prevent an owner firing an architect to save money, but continuing to use that architect's finished documents. As per OBAE rules, the architect whose stamp is on those documents is ultimately responsible for the project as the design professional in charge. In this situation, regardless of who makes changes to the plans, the original architect is still responsible, unless procedures have been followed to change

the design professional in charge. Ms. Duquette added that, while the Task Force may have solved the modification of documents issue, the issue of the design professional in charge may require attention. Ordinarily, the architect is the design professional in charge and they see the project through from concept to completion. However, if an engineer takes over for the architect, there are no requirements for the engineer to absorb the tasks commonly completed by the architect.

Regarding the modification issue, Mr. Doane suggested taking the architect's original plans and attaching them to a larger sheet of paper and indicating modifications in the margins. Ms. Duquette said cutting and pasting new portions onto original designs is also a common practice. Ultimately, President Tappert reminded the board members that the design professional in charge, regardless of profession, is responsible for informing staff of changes to plans. He explained that no matter how modifications are or aren't noted, if the design professional in charge doesn't keep staff up-to-date, there will be designs circulating without change notations. After additional discussion, the Board agreed on the draft language presented. The Board is awaiting feedback on the draft language from OBAE to determine if the rulemaking process can begin. There was no further discussion.

NEW BUSINESS

There was no new business to address.

LEGAL BRIEFING

AAG Opinion – Permission as a Substitute for Right of Entry

The Board entered into executive session pursuant to ORS 192.660(2)(f) to review records not subject to public disclosure. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.

Mr. Hoffine mentioned that he didn't believe the opinion discussed during Executive Session should be waived, but he does believe there should be an *Oregon Examiner* article informing registrants that getting the permission of a resident or owner does not fulfill the legal right of entry notification requirements. There was no further discussion.

Accreditation Cases

AAG Lozano noted that there is active litigation concerning accrediting bodies suspending or withdrawing accreditation from schools. She said the litigation is against the accrediting bodies from the schools and students who are alleging harm done by these suspensions or withdrawals. The 9th Circuit has determined that accrediting bodies have no duty of care to students, but has not ruled on the duty owed to schools. Ms. Duquette asked if OSBEELS requires land surveying degrees to be ABET-accredited as well, or if the Board will have to track the litigation concerning multiple accrediting bodies. It was confirmed that land surveying degrees are also required to be ABET-accredited. AAG Lozano noted that the courts have been reluctant to rule against the accrediting bodies because accreditation is one way to ensure quality education in regards to protecting the life, health and welfare of the public. The life/safety protection issue takes precedence over college upset. Ms. Duquette pointed out that state agencies that rely on ABET-accreditation to assess the education of registrants share in that mission of life/safety protection. There was no further discussion.

BOARD MEMBER COMMENTS

Board members had the opportunity to comment on Board or non-Board related issues. They discussed the following:

- Mr. Doane said he recently attended a briefing on dam operations and learned that the maintenance worker on duty is responsible for deciding whether dam malfunctions are critical enough to merit an evacuation. Mr. Doane said he thought this strayed into the practice of engineering. Ms. Duquette asked if the maintenance working is making the structural determinations on his own or if he's basing them on guidance documents developed by an engineer. Mr. Tappert suggested Mr. Doane submit this question to the PPC. Mr. Doane said he may formulate the appropriate question and submit it for discussion at the February 2014 PPC meeting.

ADJOURN

The meeting was adjourned at 11:44 a.m.

November 2012 ACTION ITEMS:

- Draft an RFP for research and consulting services to better understand the public's perception of OSBEELS.

March 2013 ACTION ITEMS:

- Complete CA Geotechnical examination contract.

November 2013 ACTION ITEMS

- President Tappert and AAG Lozano will be coordinating to evaluate and edit Ms. Lopez's position description.

January 2014 ACTION ITEMS

- Ms. Lopez will contact the Acoustical Engineering examination Board liaison to determine the reason for violation of the timeline determined in the Oregon Specific Examination Policy and to discuss possible solutions to prevent this issue in the future.

NEXT MEETINGS

Next Board Meeting:

March 11th, 2014

Discuss November 2014 date

The usual second Tuesday Board meeting date falls on Veterans Day in 2014, which is a federal holiday. The Board determined to meet on November 18, 2014 instead.

Next Committee Meetings:

President Tappert assigned Mr. Kent to the Examinations and Qualifications Committee and the Rules and Regulations Committee. He suggested Mr. Kent attend all February Committee meetings to gain a better understanding of the variety of responsibilities of the Board.

LAW ENFORCEMENT:

Thursday, February 13th at 8 a.m.

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| RULES & REGULATIONS: | Friday, February 14 th at 8 a.m. |
| EXAMINATIONS & QUALIFICATIONS: | Friday, February 14 th at 9 a.m. |
| EXTERNAL RELATIONS: | Friday, February 14 th at 11 a.m. |
| FINANCE: | Friday, February 14 th at 11:30 a.m. |
| OREGON SPECIFIC EXAMINATIONS TASK FORCE: | Friday, February 14 th at 12 p.m. |
| PROFESSIONAL PRACTICES: | Friday, February 14 th at 1 p.m. |
| JOINT COMPLIANCE COMMITTEE: | Thursday, February 6 th at 1 p.m. |