



Oregon

STATE BOARD OF EXAMINERS
FOR ENGINEERING &
LAND SURVEYING

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Minutes of Meeting July 12, 2016

CALL TO ORDER

President Kent called the meeting to order at 9:02 a.m. in the Conference Room of the Board office. **Please note:** The Consent Agenda is provided as an attachment to these minutes.

ROLL CALL

Members present:

Jason Kent
Christopher Aldridge
Bill Boyd
Shelly Duquette
Ken Hoffine
Logan Miles
Ron Singh
Dave Van Dyke
Amin Wahab
Oscar Zuniga

Others Present:

Mari Lopez, Administrator
Jenn Gilbert, Executive Assistant
Katharine Lozano, Assistant Attorney General
Bob Neathamer, PLS
Lisa Montellano, OSBEELS Investigator
Christina Ulberg, OSBEELS Investigator

PUBLIC INPUT

There was no discussion.

BOARD CONSENT AGENDA

It was moved and seconded (Kent/Aldridge) to approve the July Board Agenda. The motion passed unanimously.

ADMINISTRATOR'S REPORT

Ms. Lopez reported that the Examinations and Qualifications Committee (EQC), External Relations Committee (ERC), Finance Committee (FC), Law Enforcement Committee (LEC), Professional Practices Committee (PPC), Rules and Regulations Committee (RRC), and the Oregon Specific Exam Task Force (OSETF) each met during the interim and that the minutes are made part of the record.

Joint Compliance Committee (JCC) / OSBEELS and the Oregon State Board of Geologist Examiners (OSBGE)

Ms. Lopez reported on the JCC meeting that was held on May 5, 2016 in the conference room of the OSBEELS office. Revisions to the Memorandum of Understanding (MOU) were made during the meeting and a draft copy of the MOU was provided to the members. It was moved and seconded (Kent/Duquette) to approve the revisions. The motion passed unanimously.

2016 Western Zone Meeting

Ms. Lopez gave a brief report on the discussions held during the National Council of Examiners for Engineering and Surveying (NCEES) Western Zone meeting. President Kent, Shelly Duquette, Dave Van Dyke, Ken Hoffine, Amin Wahab also attended.

NCEES 95th Annual Meeting

She further reported that President Kent, Ms. Duquette, and Mr. Wahab will join her in attending the 2016 NCEES Annual Meeting in Indianapolis, IN. Board Investigators Lisa Montellano and Christina Ulberg are also registered for the 2-day NCEES Law Enforcement Forum/Program.

Department of Administrative Services (DAS)

Ms. Lopez reported that she and Ms. Gilbert, along with the Board's CPA met with Stacey A. Chase from the Statewide Accounts Receivable Management (SWARM) unit on June 24, 2016 regarding new reporting requirements for OSBEELS. During the 2015 legislative session, Senate Bill (SB) 55 was passed which modified ORS 293.229. Section 4 of ORS 293.229 requires several agencies that were previously exempt to now report each year to the Legislative Fiscal Office (LFO) on the status of the agencies' liquidated and delinquent accounts receivable for the prior fiscal year

Board Vacancies

Ms. Lopez briefly stated that the Governor's Office has yet to fill two vacancies. However, Chris Aldridge and Shelly Duquette have been re-appointed to serve for the next four years.

Staffing

Training and Development

On June 25, Danee Vig attended a Defensive Driving Class. It was noted that staff is required to take this class in order to use a State vehicle. There was no further discussion.

Compliance Specialist 2 (Investigator)

Ms. Lopez reported that JR Wilkinson submitted his resignation on June 23, and that his last day was June 30, 2016. Mr. Wilkinson accepted a position with the Construction Contractors Board (CCB). Board members commented on the timing of the resignation and status of the law enforcement cases.

Discussion then moved to filling the vacancy with a registrant, in particular a professional land surveyor. Currently, there are many cases that would benefit from having a professional land surveyor investigator that also has the responsibilities of an expert reviewer. After an extensive

discussion, the Board recommended announcing two positions; 1-expert reviewer/investigator position, and 1-Compliance Specialist 2 position. Depending on the candidates received, the Board will have the option to not fill both positions. Ms. Lopez will bring further information for consideration to the August LEC meeting.

Administrator Review

Ms. Lopez noted that her annual evaluation is overdue. The evaluation of the Administrator should be conducted every year during the July Board meeting. Previously, volunteers were asked to perform this task. President Kent stated that he and Ms. Duquette will complete the evaluation in August for review by the full Board in September. There was no further discussion.

PRESIDENT'S REPORT

President Kent stated that he did not receive significant feedback on the draft attendance policy and opened the floor for any comments. Hearing none, it was moved and seconded (Duquette/Miles) to adopt the Board Member Attendance Policy. The motion passed unanimously.

President Kent mentioned a previous conversation held by the Board related to a communication policy, in part for the Board members, but primarily for staff compliance. Ms. Lopez stated that the Communication Policy has been drafted and reviewed by a labor and employment AAG. The Communication Policy will be reviewed during the September Board meeting.

President Kent noted that the members should have received the Save the Date postcards for the 2016 Symposium to be held on September 16, 2016 and asked staff for an update. Ms. Gilbert reported that three speakers were confirmed. Board members provided Ms. Gilbert with additional names to contact. Additionally, she noted that the registration gifts were determined and an order underway.

Lastly, President Kent briefly mentioned the discussions held and the nominations made during the 2016 NCEES Western Zone meeting. Although the movement to computer-based testing has been ongoing, this was the first time he heard a date for the last written professional engineering examination administration. Ms. Lopez clarified that the Chemical professional engineering examination will be administered in pencil-and-paper for the last time in April 2017. The examination will be converted to a computer-based test after that, with the first appointments available in January 2018.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Accomando, Victor – Default Final Order

Ms. Duquette briefly summarized that Mr. Accomando did not comply with the CPD Grace Period request and has not responded to any communication from the Board. A Notice of Intent (NOI) to Assess Civil Penalty and Suspend Registration was issued and no response was received. It was moved and seconded (Duquette /Zuniga) to approve the Default Final Order. The motion passed unanimously. There was no further discussion.

Flood, Brian – Denial

Ms. Duquette reported that Mr. Flood submitted an application for registration as a Civil PE. However, he did not take and pass the NCEES Structural I examination and not the Civil NCEES PE examination. After a brief discussion on the examinations that qualify for registration in OAR 820-010-1010, it was moved and seconded (Duquette/Zuniga) to deny Mr. Flood's application for registration. The motion passed unanimously. There was no further discussion.

McDonald, Chad – Denial

Similar to Mr. Flood, Mr. McDonald took and passed the NCEES Structural I examination and not the Civil NCEES PE examination, but applied for registration as a Civil PE. It was moved and seconded (Duquette/Aldridge) to deny Mr. McDonald's application for registration. The motion passed unanimously. There was no further discussion.

Ed Huston email regarding Structural examinations

Ms. Duquette recapped the conversation held by the EQC regarding structural examinations and the qualifications for registration as a structural engineer. Staff was directed to reach out to Ed Huston for the dates the Western Region structural examinations were administered. Based on the dates received from Mr. Huston, it was moved and seconded (Duquette/Miles) to file OAR 820-010-4000 as a temporary rule and to begin the rulemaking process for permanent filing. The motion passed unanimously. There was no further discussion.

Denial Recommendations

Ms. Duquette briefly noted that the recommended denials are for individuals who passed examinations that do not qualify them for registration in Oregon, per OAR 820-010-1010. It was moved and seconded (Duquette/Aldridge) to approve the EQC Denial Recommendations. The motion passed unanimously. There was no further discussion.

OREGON SPECIFIC EXAMINATION TASK FORCE

Oregon Specific 4-hour Land Surveying Semi-Annual Report

Mr. Neathamer submitted his semi-annual report for the Oregon Specific Land Surveying examination team. Mr. Miles recused himself from any discussion. The volunteer Examination Development Team consists of Aaron Graham, Mason Marker, Jim Griffis, Tim Jackle, Logan Miles, and Bob Neathamer. With the exception of Mr. Jackle, all members of the Team are registered professional land surveyors in Oregon. Mr. Jackle is an attorney admitted to the Oregon Bar. It was moved and seconded (Aldridge/Duquette) to re-affirm the Examination Development Team as subject matter experts to prepare and grade the Oregon Specific Land Surveying examination. The motion passed; Miles abstained. There was no further discussion.

Letter to Liaisons

A brief discussion was held regarding the draft letter. It was noted that all of the volunteers, not just the Examination Development Team Liaison should receive the letter. Further, this should be sent yearly as a reminder and to any new team members added. It was moved and seconded (Duquette/Aldridge) to approve the Letter as amended. The motion passed unanimously. There was no further discussion.

FINANCE COMMITTEE

Investment Policy

President Kent directed the members' attention to the Investment Policy. The revisions to the Policy were made as a result of the presentation and information from AAG Cynthia Byrnes. It was moved and seconded (Kent/Duquette) to approve the revisions to the Investment Policy. The motion passed unanimously.

With the revisions to the Investment Policy approved, consideration was given on investing the funds set aside for the Business Continuity Plan (BCP) and the Litigation Reserve. After discussion, staff will research information to bring back to the Finance Committee in August.

Expert Reviewer allocated funds

Staff provided the information as requested during the June meeting relate to the costs for prior cases that used an expert reviewer. With the possibility of hiring a professional land surveyor to investigate cases, there was no further discussion on the matter.

Review of financial information

The Board's financial information for the period of July 2015 through April 2016 was provided for review. AAG Lozano commended the Board for its regular inspection of the records. There was no additional discussion.

LAW ENFORCEMENT COMMITTEE

2952 – Sprague

Mr. Boyd noted that Martin Sprague was issued a NOI to Assess a Civil Penalty in the amount of \$750 for the violation of OAR 820-020-0045(4) and a \$250 civil penalty for the violation of OAR 820-020-0025(1), for a total civil penalty of \$1,000. Mr. Sprague did not request a hearing or an informal conference. Therefore, it was moved and seconded (Boyd/Duquette) to issue the Default Final Order. The motion passed unanimously. There was no further discussion.

3001 – Coppock

Mr. Boyd noted that Judson Coppock was issued a NOI to Suspend his Professional Land Surveyor registration until his outstanding civil penalties, plus all interest accrued, are paid in full from prior case# 2877. Coppock has not responded to Board communications. It was moved and seconded (Boyd/Kent) to issue the Default Final Order. The motion passed unanimously. There was no further discussion.

2955 – Anderson

Mr. Boyd summarized the informal conference held with Monica Anderson as contained in the June 2016 LEC minutes. It was alleged that the BHE Group advertised engineering services from an office without a full-time partner, manager, officer, or employee physically present; Anderson is the president and principle engineer. After discussion, the LEC recommended withdrawing the NOI as compliance met and issuing a letter of concern. It was moved and seconded (Boyd/Duwuette) to withdraw the NOI. The motion passed unanimously. There was no further discussion.

2966 – Armentrout

Pulled from the agenda.

2914 – Heck

Mr. Boyd summarized the LEC discussion regarding James Heck. It was noted that this case is also related to 2 other cases that have been referred to a professional reviewer. It was moved and seconded (Boyd/Duquette) to close the case as allegations unfounded. The motion passed unanimously. There was no further discussion.

2942 – WHPacific Inc.

Mr. Boyd summarized the LEC discussion regarding WHPacific, Inc. This case was opened from previous law enforcement cast 2901. Although WHPacific Inc falls under the exception in ORS 672.060(9) as far as its bid, the concerning issue in the case was actually, the attorney representing the company (Baker) not being a licensed member of the bar. It was moved and seconded (Boyd/Aldridge) to close this case as allegations unfounded. The motion passed unanimously. Staff reported that a referral to the Oregon State Bard on Baker was submitted. There was no further discussion.

2943 – Maslan

Mr. Boyd summarized the LEC discussion regarding Stephen Maslan. The allegations against Maslan were for an improper seal and negligent work associated with wind load rates. During the investigation, Maslan provided a copy of a compliant seal and it was confirmed that the wind load calculations were acceptable. It was moved and seconded (Boyd/Wahab) to close this case as compliance met. The motion passed unanimously. There was no further discussion.

2944 – Whiting

Mr. Boyd briefly summarized the LEC discussion on Raymond Whiting. Whiting self-reported a failure to file a map; however contact with Whiting could not be made during the investigation to produce any evidence. It was moved and seconded (Boyd/Duquette) to close this case as insufficient evidence. The motion passed unanimously. There was no further discussion.

2953 – Anspach

Mr. Boyd summarized the LEC discussion regarding information received from the Missouri Board of Architect, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects alleging unlicensed practice of engineering by James Anspach after he testified in a court case there as an engineer. The investigation did not produce any evidence of violating Oregon rules or laws, and therefore, it was moved and seconded (Boyd/Aldridge) to close the case as allegations unfounded. The motion passed unanimously.

2961 – Rider

Mr. Boyd summarized the LEC discussion on Morgan Rider. An anonymous complaint was received because Rider stated she was a “professional engineer in the state of Oregon” in her biographical information for the Environmental Quality Commission (EQC) and Oregon Water Shed Enhancement Board (OWEB) websites without registration in Oregon. Rider revised the websites to be complaint. Since Rider also asked the Board for guidance, it was moved and seconded (Boyd/Miles) to write Rider a letter confirming that her biographical information is no

longer in violation of the Board's title act, and that the case will be closed as compliance met. The motion passed unanimously. There was no further discussion.

2965 – Gilbert

Mr. Boyd explained as a result of previous case number 2936, a case was opened on Dan Gilbert for plan stamping with an incorrect stamp. During the investigation, Gilbert provided a copy of his seal that shows compliance. It was moved (Boyd/Duquette) to close the case as compliance met. The motion passed unanimously.

3000 – Ambit Consulting

Similar to case number 2965 – Gilbert, Mr. Boyd noted that this case was also opened as a result of previous case number 2936. This case investigated the allegations of offering and advertising land surveying services in Oregon without a licensed professional land surveyor on staff. However, the investigation did not result in evidence to show that Ambit Consulting was advertising or offering land surveying services in Oregon without a licensed professional on staff. It was moved (Boyd/Wahab) to close the case as allegations unfounded. The motion passed unanimously.

2890 – Young

Mr. Boyd reported that the case against Dave Young is related to previous case number 2787 against David Lysne and involved an Oregon State University (OSU) engineering student project used to redesign a culvert. The investigation found that the student was unaware of the use of his school project and that Young was involved only in managing the construction. It was moved and seconded (Boyd/Wahab) to close the case as insufficient evidence. The motion passed unanimously. It was noted that David Lysne was assessed a civil penalty for violation of the Board's statutes and rules. There was no further discussion.

2959 – Grip

Mr. Boyd briefly summarized the LEC discussion on Bill Grip. An anonymous complaint was received with a business card that had "Bill Grip, PE" when Grip is not licensed in Oregon. Grip now lives in New Jersey and provided a copy of a new business card. It was moved and seconded (Boyd/Duquette) to close this case as compliance met. The motion passed unanimously. Mr. Singh did mention that he did not recall opposing the recommendation to close the case as compliance met during the June LEC meeting. There was no further discussion.

2968 – Barbosa

Mr. Boyd stated that the April LEC discussion resulted in staff conducting follow-up investigation. Staff reported to the June LEC that full compliance had been met as Barbosa showed on both web pages that he is a registered professional engineer in Portugal. It was moved and seconded (Kent/Boyd) to close the case as compliance met. The motion passed unanimously. There was no further discussion.

College letters

The letter written to OSU President Ray regarding the OSU Trademark was provided for review. There were no revisions or additional comments offered and it was moved and seconded (Kent/Boyd) to send the letter out. The motion passed unanimously. After reviewing the letters

drafted to make contact with Oregon institutions that have engineering curricula, President Kent requested time to make additional revisions. Draft letters will be presented again during the September Board meeting for consideration.

RFQ

The Board's Request for Qualifications (RFQ) was revised to state that the Board does not provide professional or general liability insurance to independent contractors and, while recommended, it would not be required to contract with the Board as a professional reviewer. It was moved and seconded (Boyd/Zuniga) to approve the revisions to the RFQ. The motion passed unanimously. There was no further discussion.

Disciplinary Procedures

The Disciplinary Procedures were revised for consistency with rules, such as the preliminary evaluation process, are now reflected. It was moved and seconded (Boyd/Zuniga) to approve the revisions. The motion passed unanimously. There was no further discussion.

Wolden Injunction

AAG Lozano updated the members on the status of the civil injunction against Timothy Wolden to stop him from performing unlicensed engineering work and holding himself as an engineer. Ms. Lopez informed the Board that additional information was received that he may be holding himself out as an engineer again. AAG Lozano will notify AAG Grant. There was no further discussion.

PROFESSIONAL PRACTICES COMMITTEE

City or County Engineers and Land Surveyors Engaged Surveying Work – DOJ File No. 917001-GB01014-16

Questions were received from H. Timothy Fassbender and Peggy Keppler that prompted the PPC to request advice from AAG Lozano related to the applicability of ORS 672.047 to professional engineers and professional land surveyors conducting survey work as employees of a city or county. It was moved and seconded (Aldridge/Miles) to waive privilege on the advice received, to answer the questions from Mr. Fassbender and Ms. Keppler, and to also provide a copy of the advice. The motion passed unanimously. There was no further discussion.

RULES AND REGULATIONS COMMITTEE

OAR 820-025-0005

Mr. Hoffine summarized the proposed housekeeping revision to OAR 820-025-0005 – Official Seals. It was moved and seconded (Duquette/Hoffine) to begin the rulemaking process for OAR 820-025-0005. The motion passed unanimously. There was no further discussion.

OAR 820-040-0030

Mr. Hoffine summarized the proposed housekeeping revision to OAR 820-040-0030 – Traffic Engineering. AAG Lozano elaborated on the how the revisions came about. After discussion, it was moved and seconded (Duquette/Boyd) to begin the rulemaking process on OAR 820-040-0030. The motion passed unanimously. There was no further discussion.

LEGAL BRIEFING

AAG Lozano noted that materials for the Legal Briefing were unavailable.

BOARD MEMBER COMMENTS

Ms. Duquette commented on the timeline related to a Law Enforcement case where a structural reviewer needs to be obtained. Ms. Lopez responded that the issue is the complainant is from the City of Portland and the structural reviewers that have been approved by the Board have potential conflicts of interest. Staff has made many attempts to locate another reviewer available for the task.

ADJOURN

The meeting was adjourned at 2:04 p.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 – awaiting a return draft from California.

NEXT MEETING

September 13, 2016



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July 12, 2016 Board Meeting

The following consent agenda is presented for the July 12, 2016 meeting of the Oregon State Board of Examiners for Engineering and Land Surveying. Items may be removed from the consent agenda on the request of any one member. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent agenda or placed later on the agenda at the discretion of the Board President.

Item #	In the matter of:	Action:
1	Approve July 12, 2016 Board meeting agenda.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
2	Approve May 10, 2016 Board meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
3	Approve June 17, 2016 Special Board meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
4	Approve June 9, 2016 LEC meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
5	Approve June 10, 2016 EQC meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
6	Approve June 10, 2016 ERC meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
7	Approve June 10, 2016 FC meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
8	Approve June 10, 2016 OSETF meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
9	Approve June 10, 2016 PPC meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
10	Approve June 10, 2016 RRC meeting minutes.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
11	Approve Registration Approval List.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)
12	Approve EQC Final Orders.	<u>Motion/Second</u> (<u>Kent/Aldridge</u>)