



Oregon

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

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PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting

August 10, 2012

Members present:

Sue Newstetter, Chair

Steven Burger

Jim Doane (excused absence)

Staff present:

Mari Lopez

Jenn Gilbert

Allen McCartt

Joy Pariente

James R. (JR) Wilkinson

Others present:

Katharine Lozano, Assistant Attorney General

Christine Valentine, Administrator Oregon State Board of Geologist Examiners (OSBGE)/

Oregon State Landscape Architect Board (OSLAB)

Monika Peterson, Investigator, Oregon Board of Architect Examiners (OBAE)

Eric Osman

Michael Hardy

Raleigh Lewis, Office of Minority, Women and Emerging Small Business (OMSWEB)

Sabrina Pearson

The meeting of the Professional Practices Committee (PPC) was called to order at 1:00 p.m. in the conference room of the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) office at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

Guest Discussion –

Office of Minority, Women and Emerging Small Business (OMSWEB)

As a result of a matter introduced during the April meeting, the Committee invited Raleigh Lewis from the Office of Minority, Women and Emerging Small Business (OMSWEB) for additional discussion. Mr. Lewis started the discussion with a summary of the certification programs that are designed to promote economic opportunities for small businesses. He informed the members that there are additional federal requirements to the programs as well.

Since the meeting stemmed from OSBEELS law enforcement cases in which the individuals contend that no violations transpired because their OMSWEB certifications allowed them to practice in fields. Staff prepared a memo describing that they were not professionally licensed. As a result, law enforcement cases were opened for unlicensed practices of engineering and land surveying. The memo also summarized the confusion about OSBEELS and OMSWEB. The

conflict appears to be with the differing authorities to engage in certain professional practices. OMSWEB certifies individuals to provide certain professional services when the persons are not registered with OSBEELS to offer or provide those professional services. Mr. Lewis noted that the applicants submit verification of requisite licensure for providing professional services when necessary. Ms. Lopez offered that OSBEELS can fulfill requests for verification of professional licensure if OMSWEB considered including that as a requirement.

The Committee discussed several of the examples provided in the memo and the lack of registration, as contained in the OSBEELS database, to provide engineering and/or land surveying services. In one example, the registrant retired their professional engineer registration in lieu of revocation to settle a law enforcement case. However, the OMSWEB Web site showed that this individual still holds an engineering certification that authorizes him to provide professional engineering services. Mr. Lewis noted that a certificate may cover a period of more than one year and furthermore, a thorough review is not conducted at each renewal. Again, OSBEELS staff offered that notification can be given to OMSWEB of disciplinary actions so that OMSWEB can update its database accordingly. Another inquiry previously brought to the Committee was the transfer of the Disadvantaged Business Enterprise (DBE) certification. Mr. Lewis informed the Committee that specific eligibility requirements must be met for this certification. Of great importance is the fact that this certificate cannot be transferred. In fact, the DBE, the Minority and Women Business Enterprise (MBE/WBE), and the Emerging Small Business (ESB) certificates are all non-transferrable.

Ms. Valentine then brought into discussion the confusion held by the public with regard to the geotechnical engineer and the certified engineering geologist. Ms. Newstetter briefly agreed that there is confusion and asserted that a position paper be drafted to assist in delineating the roles of each profession.

In conclusion, open communication and sharing of knowledge regarding the requirements under the authorities of OMWESB and OSBEELS will continue to assist the public and applicants in the certification and licensure processes.

New Business –

Engineering Management

Erwin Quiachon sent an email to staff with a concern that he has noticed several engineering companies in Oregon that have members of ownership or management who do not hold a license as a professional engineer. Mr. Quiachon inquired if there is any law that prevents these members of ownership or management from instructing a licensed professional engineer under their direction as to where to apply or remove their engineering seal on engineering designs. Staff informed Mr. Quiachon that OAR 820-010-0720 allows unlicensed persons to advertise for or offer to perform professional services provided that a full-time partner, manager, officer, or other employee is licensed to practice in the discipline for which a license is required. The Committee briefly discussed the portion of the email in which he inquires about applying or removing an engineering seal on an engineering design. However, without a specific scenario, the Committee was unable to provide a response. Staff was directed to contact Mr. Quiachon for further information to assist with his concern.

Questions About Geologic Hazard Ordinance Amendment

The Committee discussed an email received from Sabrina Pearson, City Planner for the cities of Bay City, Gearhart, and Wheeler. Ms. Pearson briefly summarized her past coordination with previous staff of OSBEELS and OSBGE with the Department of Land Conservation and Development (DLCD) Technical Assistant Grant in 2005-2007. She was in attendance to request comment on proposed language regarding the Geologic Hazard Ordinance amendment for the City of Wheeler. Ms. Pearson also noted that concern was submitted from the public about whether the qualified professional of record is allowed to review the plans and site work to provide recommendations or whether the plan and site review is outside of the professional scope of work. Through discussion, it was recognized that the registered geologist or certified engineering geologist and professional engineer work together on these types of project. After discussion, the Committee suggested the following minor revision to the proposed language (6),

For any geologic investigation report and geotechnical engineering report submitted, *the* **both** registered professionals of record shall be required to, **within their respective lawful scope of practice:**

Recommended Deleted Text = *Italic/Red*

Recommended Text = **Bold/Black**

There was no further discussion.

Question – Part-time Employee

The Committee received an email from Chuck Wiley concerning an individual that works ½ time or less in a firm that is offering land surveying services. Mr. Wiley inquires if this is in violation of OAR 820-010-0720? If it is, who would be held responsible; the business owner or the PLS who is employed as a part time employee? He further informed the Committee that there are other PLSs in the company. However, they are assigned to work with clients exclusively off site of the employer's office when the client has work to complete. He also noted that the other PLSs do not participate in any advertising efforts and are similar to an on-call contractor. After discussion, the Committee was unclear if the ½ time PLS is an employee of the company or a contractor. Accordingly, staff was directed to contact Mr. Wiley for further information on the circumstance. There was no further discussion.

The meeting adjourned at 2:55 p.m.