



Oregon

State Board of Examiners for
Engineering & Land Surveying
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Minutes of Meeting March 11, 2014

CALL TO ORDER

President Tappert called the meeting to order at 9:07 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
Steven Burger
James Doane
Shelly Duquette
Anne Hillyer
Ken Hoffine
Jason Kent
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
Matthew Cash, Professional Engineers of Oregon (PEO)

PUBLIC INPUT

There was no public input.

BOARD CONSENT AGENDA

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

- Approval of March 11, 2014 Board Agenda
- Approval of January 14, 2014 Board Meeting Minutes
- Approval of February 14, 2014 Special Board Meeting Minutes
- Approval of February 21, 2014 Special Board Meeting Minutes
- Approval of February 14, 2014 Examinations & Qualifications Meeting Minutes
- Approval of February 14, 2014 Oregon Specific Examinations Task Force Meeting Minutes

- Approval of February 14, 2014 External Relations Committee Meeting Minutes
- Approval of February 14, 2014 Finance Committee Meeting Minutes
- Approval of February 14, 2014 Professional Practices Committee Meeting Minutes

The motion passed unanimously.

There was additional discussion on the following meeting minutes:

- February 13, 2014 Law Enforcement Committee Meeting Minutes

It was moved and seconded (Doane/Singh) 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 NCEES has extended an invitation to the Board to observe the upcoming examination administration. Mr. Doane volunteered to observe. There was no further discussion.

Staff update: Following the meeting, Mr. Doane informed Ms. Lopez that he is unavailable to observe the upcoming examination administration.

2011-2013 Biennial Audit

Ms. Lopez reported that the field work by Talbot, Korvola & Warwick for the 2011-2013 biennial audit has been completed. Ms. Lopez requested a draft of the audit report for presentation to the Board, but the document had not been received prior to the end of the Board meeting. Ms. Lopez said a special Board meeting may be necessary to review the audit report and review the agency's response prior to submission to the Governor. There was no further discussion.

Oregon Board of Architect Examiners (OBAE)

Ms. Lopez reported that OBAE has completed an initial review of the Reference Manual for Building Officials. This round of revisions was not consistent with previous years, as each board is usually responsible for making revisions to its own sections. OBAE made the preliminary revisions and has requested OSBEELS review the draft language. President Tappert asked when this task needs to be completed. Ms. Lopez said the review is normally conducted after Legislative Session. Ms. Newstetter said PPC can review the draft language at the April 2014 meeting. President Tappert asked if the revisions would be ready for Board approval at the May 2014 meeting. Ms. Newstetter said it would be better to work toward a July 2014 Board approval to give PPC enough time to appropriately review the draft language. President Tappert directed Ms. Lopez to inform OBAE that OSBEELS would submit revisions to the draft language following the July 2014 Board meeting. There was no further discussion.

Staffing

Ms. Lopez reported that interagency agreements with the Department of Administrative Services (DAS) have been finalized for PERS and Oregon Statewide Payroll Services/Shared Payroll

Services. Ms. Lopez explained that these services would handle OSBEELS payroll, PERS reporting and other related tasks. Ms. Lopez and Ms. Gilbert have also met with DAS Enterprise HR Services (EHRS) to discuss the cooperative human resource services available. Mr. Boyd asked how these services would assist in providing human resource services to OSBEELS Staff. Ms. Lopez said there is the option to have a human resources employee on the DAS payroll, but who has office hours at OSBEELS. She said the agreement for Recruitment Services and Position Management Services to conduct position reviews, draft position descriptions and assist with employee recruitment is still being reviewed and a determination has yet to be made. There was no further discussion.

Miscellaneous Topics

Ms. Lopez reported that the University of Portland has requested a Board member to participate on an engineering ethics panel on March 18, 2014. Ms. Duquette volunteered. There was no further discussion.

Action Items

November 2012 – Draft an RFP for research and consulting services to better understand the public’s perception of OSBEELS

Ms. Lopez reported that this RFP is still being developed. There was no further discussion.

March 2013 – Complete CA Geotechnical examination contract

Ms. Lopez reported that this contract is still being developed and is currently with the CA Board. There was no further discussion.

January 2014 – Policy violations – Acoustical Engineering examination development team

Mr. Noxon was present at the meeting and the policy compliance issues were discussed during the OSETF briefing. There was no further discussion.

PRESIDENT’S REPORT

Exam Reapplications

President Tappert initiated a discussion regarding reapplication approval following multiple failed examination attempts. This topic came up during the February 21, 2014 Special Board meeting when Ms. Duquette voiced her concern about the quality and professionalism of individuals who need to take their professional examinations multiple times. OAR 820-010-0465 requires that an applicant submit evidence of further preparation for the exam after the second failure. President Tappert pointed out that this is a subjective standard and he believes there would be better protection of the public if a more objective standard was established. He explained that it’s a disservice to the public to allow individuals to practice who sat for their professional examination an excessive number of times.

President Tappert proposed an increasing time frame before subsequent attempts at examination following each failed attempt. He said it is difficult to determine if individuals are adequately preparing for their exams, but they would be encouraged to do so if they knew failing would result in a long waiting period before another attempt. Mr. Doane said years between examinations are a long wait for individuals seeking licensure. President Tappert said the options are an extended wait period between examinations or some type of solid preparation requirements, as the current preparation requirements are subjective and, in his opinion, inadequate.

Mr. Boyd said this is an issue with individuals sitting for the California Bar. He said there are

candidates who have taken the examination 30 or more times. He compared it to rolling dice and hoping for a passing score. Ms. Duquette said the professional engineering and land surveying examinations are intended to determine minimal competence and allowing individuals to continue “rolling the dice” for a passing score is not protecting life and safety. She said these numerous attempts do not display an individual who can meet the minimal competency requirements. Mr. Doane pointed out that there is no money lost by allowing multiple examinations, so he said he saw no reason to limit attempts. Ms. Duquette said it doesn’t matter that these attempts aren’t costing the Board money; it’s still a potential life and safety issue. Mr. Burger pointed out that there are no studies or data showing that multiple attempts at one’s professional examination equals less competence and he feels it is a leap to assume this. Ms. Hillyer said recent EQC discussions have addressed the difficulties of determining if an individual’s required additional examination preparation is adequate. She explained that some are self-studying, others are gaining work experience and others are taking courses online or through local colleges and universities. Mr. Singh suggested requiring individuals submitting a reapplication to also submit references who can verify the quality of their work and examination preparation. The other Board members agreed that references would be a good way to determine the level of examination preparation being undertaken by the applicant. The Board determined to send this topic to the RRC for discussion. The RRC will discuss the option of requiring references attesting to examination preparation measures, extended time between examination attempts and other options for creating a more objective method for reviewing reapplications. There was no further discussion.

Joint Compliance Committee (JCC)

President Tappert reported that there was discussion during the most recent JCC meeting regarding requesting an updated AAG opinion about the overlaps between the practices of engineering and geology. OSBEELS and the Oregon State Board of Geologist Examiners (OSBGE) would each pay half of opinion cost; the total of which is estimated at \$9,400. It was moved and seconded (Newstetter/Duquette) to approve the expense of obtaining an updated AAG opinion on the overlaps between the practices of engineering and geology. There was no additional discussion. The motion passed unanimously. Additionally, Ms. Duquette, Mr. Doane and Mr. Kent volunteered to serve on the JCC. President Tappert appointed Ms. Duquette and Mr. Kent to the JCC, with Mr. Doane serving as alternate. There was no further discussion.

Board Officers

President Tappert appointed Mr. Hoffine and Ms. Newstetter to form a nominating committee for a new Board president and vice president. The election will be held during the May 2014 Board meeting. There was no further discussion.

Attorney General’s Opinions

President Tappert reminded the Board members that AAG opinions prepared for OSBEELS are privileged documents and are not intended for public distribution or discussion. The Board has the authority to waive privilege and release the opinions to the public, but unless this is stated on the record Board members should not disclose the contents of these opinions. There was no further discussion.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Mr. Burger reported that that EQC met on February 14, 2014 and discussed the matters contained in the Committee minutes. It was moved and seconded (Burger/Hillyer) to approve the Consent Agenda containing the following:

- Approve list of applicants for registration by comity.
- Approve list of applicants for registration by 1st registration.
- Approve list of upper division courses from OSU for use by the Registration Department when reviewing transcripts of individuals applying for the FLS.
- Approve Robert Allen Bell's application for the October 2014 Oregon Specific Land Surveying examination.
- Approve Basil Michal Hanson's application for the April 2014 Oregon Specific Land Surveying examination.
- Deny Michael P. Wood's application for registration as a PLS by comity.

The motion passed unanimously.

Additional discussion was held on the following matters:

Question Form – Gilbert, Damien

Mr. Gilbert submitted a Question Form requesting the Board consider amending the list of branches examined by the Board to include traffic engineering. The Committee directed Staff to inform Mr. Gilbert of the appropriate process to petition the Board to amend the list of branches examined, as described in OAR 820-010-0450. However, Ms. Lopez noted that Staff has received two additional Question Forms from the Oregon Department of Transportation (ODOT) regarding traffic engineering. There was no further discussion.

Mangubut, Frederick

Mr. Mangubut's situation was discussed during the February 14, 2014 EQC meeting. Ms. Duquette questioned if it was appropriate to deny Mr. Mangubut's application to sit for the structural engineering examination because he didn't take the FE, but has passed the PE. AAG Lozano explained that either passing the FE or being enrolled as an Engineering Intern in another jurisdiction are the statutory requirements to sit for the structural engineering examination. Mr. Mangubut's FE was waived by a previous Board executive secretary when Mr. Mangubut applied for the PE. AAG Lozano said there was no evidence that this decision went to the Board for approval. She also noted that Mr. Mangubut's file indicates he is not enrolled as an Engineering Intern in another jurisdiction. Ms. Duquette said she understood the situation better after that explanation and would feel better about allowing him to sit for the structural examination if the previous Board had approved the decision to waive Mr. Mangubut's FE. President Tappert added that there is no reason to build upon past errors and it is best to follow the proper procedures moving forward. There was no further discussion.

CPD Clarification – Cornforth, Derek H.

Mr. Cornforth wrote a letter to OSBEELS expressing disbelief at the rule that authoring a book can only count for a maximum of 10 professional development hours (PDH). Ms. Duquette pointed out that the objective of instituting limits on certain types of PDHs is to encourage diversification of the registrant's continuing education. Mr. Kent said he believes books and academic papers should be separated in the rule because of the differing amounts of work that go into each of those products. Ms. Duquette said the distinction between the two is made when

determining PDHs – more time committed equals more PDHs. Mr. Hoffine asked if a book can be considered as employment if the individual is gaining income from the sale of the book. AAG Lozano said there are two issues to consider if a registrant’s primary job is going to be reviewed in the context of income-producing activity, to determine PDH eligibility: First, is the activity *required* as part of the registrant’s job, or is not required, but does simply happen to generate revenue? Second, if it isn’t a required part of the registrant’s job, does the Board want to exclude, by rule, all revenue-generating activity from eligibility for PDH requirements (as they do with the Oregon specific exam prepareres and graders, but which could also impact PDH qualification for things like presenting classes or seminars), because the Board wants to define a registrant’s job as, in part, anything that produces revenue? Mr. Hoffine reiterated that, even if it isn’t their primary employment, an activity that generates income may be considered a job. Mr. Singh said if the goal is continuing professional development, it shouldn’t matter if income is generated in the course of that continuing development. AAG Lozano reminded members that, under current rule, PDHs can’t be granted for activities that are part of the registrant’s primary employment, but there is no specific prohibition at this time against PDH eligibility for revenue producing activities that are not a part of the registrant’s primary employment. Ms. Duquette noted that self-study, exam development and grading, mentoring and participation in professional or technical societies are also capped with a maximum PDH amount. These activities don’t usually have supporting documentation associated with them, as they are individual efforts with little oversight. Mr. Kent expressed a desire to discuss this issue in more detail. The Board determined to send the issue to EQC for a review of the PDH rules and discussion of any changes necessary to appropriately reflect the amount of effort involved and development resulting from specific activities. There was no further discussion.

OREGON SPECIFIC EXAMINATIONS TASK FORCE

Ms. Newstetter reported that the OSETF met on February 14, 2014 and discussed the matters contained in the Committee minutes. There was additional discussion regarding the following matters:

2013 PE Exam – Acoustical Engineer, Graded Exams, Transmittal Letter

During the February 14, 2014 OSETF meeting, it was noted that Mr. Noxon had submitted the results of the acoustical engineering examination outside of the 60-day window prescribed by policy. Mr. Noxon said he responded by the date provided by the Registration Department. Mr. Bryan apologized for the confusion and said he made a mistake when drafting the letter regarding exam result submission that was sent to Mr. Noxon with the exams. He said he accidentally used the previous timeline rather than the new timeline determined by OSETF policy. Mr. Bryan said the departmental procedures have been amended and this type of mistake won’t happen again.

Mr. Noxon and the board members then discussed the issued of the cut score used in the exam, examination security issues, follow-up grader objectivity, and quality of examination booklet copies.

President Tappert asked Mr. Noxon if the winter holidays made grading according to the policy timeline more difficult. Mr. Noxon said the holidays are definitely an added stress during grading. The Board determined to send this issue to the April OSETF meeting for action. There was no further discussion.

Addition to the forest engineering examination development team

The forest engineering examination development team requested to add Dr. John Garland, OSU. The Board noted he had an extensive resume. It was moved and seconded (Newstetter/Hoffine) to approve Dr. John Garland for participation with the forest engineering examination development team. The motion passed unanimously. There was no further discussion.

EXTERNAL RELATIONS COMMITTEE

Mr. Doane reported that the ERC met on February 14, 2014 and discussed the matters contained in the Committee minutes. It was moved and seconded (Kent/Duquette) to approve the Consent Agenda containing the following:

- Approve the **Military education and experience evaluation options** article.
- Approve the **Changes to requirements for modifying designs and documents** article.
- Approve the **Running lines by the sun** article.
- Approve purchasing a 1/3 square advertisement in *The Oregon Surveyor* for the May/June and July/August issues.
- Approve the updated Mission, Functions and Goals.

The motion passed unanimously. There was additional discussion on the following matters:

2014 OSBEELS Symposium

Mr. Singh asked if there would be discussion on 3D and 4D technologies included in the *Using 4D for better project planning* presentation, as an understanding of 3D is required before comprehending the concept of 4D. He also tentatively offered to speak on this topic. He also expressed interest in presenting information for the *UAVs for photogrammetric aerial mapping* and *Construction automation* presentations, as he will have just completed a system demonstration and may have data available to include in a presentation.

Additionally, the Board suggested that Ms. Pariente could serve as the OSBEELS liaison to professional organizations for event planning and coordination purposes. Ms. Lopez agreed that this role would fit within her job description. There was no further discussion.

Speaking Engagements

President Tappert volunteered to speak at the PEO conference on May 8, 2014 on the topic of the importance of continuing professional development. There was no further discussion.

FINANCE COMMITTEE

Mr. Hoffine reported that the FC met on February 14, 2014 and discussed the matters contained in the Committee minutes. There was additional discussion on the following matters:

Review of Financial Information

Mr. Hoffine asked if it would be possible to enter into an agreement with DAS for accounting services in addition to human resources services or to contract with an outside consultant for additional guidance on public dollars accounting. Ms. Lopez said she would look into that possibility. Ms. Newstetter suggested drafting a new request for proposal (RFP) specifically targeting accountants with public dollars experience. Mr. Singh asked if there were currently any accountants on OSBEELS Staff. Ms. Lopez said there are not. Mr. Boyd said he would consider getting accounting guidance as a high priority; not because it is an issue within OSBEELS, but because he has seen it become a significant public issue with state agencies repeatedly over the past 10 years. Mr. Hoffine said he would prefer a consultant to a Board member for financial guidance. Mr. Boyd agreed and said Board finances would be a big commitment for a volunteer Board member. This topic will be discussed during the April 2014

Committee meeting. There was no further discussion.

LAW ENFORCEMENT COMMITTEE

President Tappert reported that the LEC met on February 13, 2014, to discuss the matters as contained in the Committee minutes. It was moved and seconded (Hillyer/Singh) to approve the consent agenda containing the following:

- Final Orders
 - 2743 – Timothy Bardell – Civil penalty of \$2,000 and a 90-day suspension
 - 2757 – Melvin L. Johnson – Civil penalty of \$3,000 and a 90-day suspension
 - 2764 – Douglas Colman Zaita – Civil penalty of \$3,000 and a 90-day suspension
 - 2771 – Marjan Sassanfar Amesbury – Civil penalty of \$100
 - 2773 – Sofronio C. Mendez – Civil penalty of \$500
 - 2787 – David H. Lysne – Civil penalty of \$1,000
 - 2839 – Takeshi Kobayashi – Civil penalty of \$250
 - 2855 – John Raymond Gery – Revocation
 - 2856 – Jong-Rok Lee - Revocation
- Additional Action Items
 - 2725 – James D. Rodine – Close case as allegations unfounded
 - 2726 – David J. Gowers – Close case as allegations unfounded on negligence/incompetence, but issue letter of concern regarding documentation of supervision and control
 - 2767 – Suzanne Lane Marinello – Close case as allegations unfounded
 - 2786 – Millman Surveying, Inc. – Close case as allegations unfounded
 - 2792 – Vlad Diaconu – Close case – withdrawal of NOI
 - 2803 – Leroy F. Middleton – Close case – respondent deceased
 - 2806 – David Barry Thomas – Close case as compliance met
 - 2809 – Chris Harper – Close case with a letter of concern regarding unlicensed practice on non-exempt structures
 - 2811 – L. Calvin Martin – Close case with a letter of concern regarding unlicensed practice on non-exempt structures
 - 2818 – Jong-Oh Lim – Close case as compliance met
 - 2820 – Daniel Sherwood – Close case – incorrectly selected for CPD audit
 - 2847 – Dennis James Stanton – Close case as compliance met

The motion passed unanimously. There was additional discussion regarding the following matters:

2829 – Jack Watson

Ms. Newstetter recused herself from discussion based on a conflict of interest stemming from a professional relationship with Mr. Watson. AAG Lozano explained that Mr. Watson does not agree with all the charges included in his settlement agreement and will be appearing before the Committee again in April to discuss his case further. Mr. Singh asked if this means the Board has to start the informal conference process with Mr. Watson over again. AAG Lozano said there are two options: either there are additional discussions with Mr. Watson, potentially resulting in changes to the settlement agreement or the Board can reject his requested modifications to the agreement and proceed to a hearing.

Mr. Singh asked if it was possible for all Committee agendas to be distributed to all Board

members. He said members may be interested in sitting in on Committees to which they aren't assigned to get a better understanding of an issue. The Board directed Staff to distribute all Committee agendas to all Board members, regardless of Committee assignment. There was no further discussion.

2782 – Chander P. Nangia

Mr. Nangia also requested changes to his settlement agreement. AAG Lozano said he wants the reference to 22 violations in 18 other states removed from the settlement agreement because he is concerned about that information being connected to him through online searches. The Board agreed that this information is a significant fact in this case and should remain in the settlement agreement.

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 April. 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.

2787 – David Lysne/Marvin Russell Pyles

The Board approved a default final order for Mr. Lysne, as he did not contest the charges. Mr. Hoffine said this case will still set a precedent regarding state land road work requiring a registered engineer. AAG Lozano pointed out that there is no exemption for the registered engineer requirement on state lands. Ms. Lopez said there is currently a preliminary investigation being conducted regarding an individual who applied for an examination in Oregon and was supervising unlicensed personnel, as an unlicensed individual, while potentially performing forest engineering work. There was no further discussion.

PROFESSIONAL PRACTICES COMMITTEE

Ms. Newstetter reported that the PPC met on February 14, 2014 and discussed the matters contained in the Committee minutes. There was additional discussion regarding the following matter:

OSBGE Engineering Geology Report Guidelines, Engineering Geology Report Guideline Fact Sheet and Professional Practices Guidance Document

John Seward, PE and JCC member, submitted suggested clarifications for these documents. Staff was directed to share this feedback with OSBGE and request that they contact OSBEELS if any additional clarification or language suggestions are required. Ms. Newstetter asked the Board if the Standards of Practice of Land Surveying Committee should be reconvened to develop similar guidelines for land surveyors. President Tappert asked if these guidelines were legally enforceable. Ms. Newstetter said they are not, but they are “best practice” guidelines. She said that the practices seen in LEC cases indicate a need for at least basic “best practices” guidelines for Oregon surveyors to be able to access. Mr. Boyd pointed out that violation of established “best practices” can provide grounds for a civil suit, even if not for a regulatory

action.

AAG Lozano noted that, from an outsider's perspective, the establishment of land surveying guidelines would let the surveying community know there are agreed upon "best practices" that may be better than the practices occurring in the field. Ms. Newstetter agreed and said, while the guidelines wouldn't be codified, they would be a good reminder of proper surveying practices. Mr. Boyd said the Construction Contractors Board (CCB) established minimum standards for home inspectors. He suggested establishing minimum standards for surveying because property owners should have confidence that when they hire a professional land surveyor the minimum standards for surveying will be met. AAG Lozano said other states have codified standards of practice for land surveying. Ms. Newstetter said those standards were used as an outline when the Committee was drafting standards of practice for Oregon surveyors. The Board determined to send this topic back to the Committee for additional discussion and review. There was no further discussion.

RULES AND REGULATIONS COMMITTEE

Mr. Hoffine reported that the RRC met on February 14, 2014 and discussed the matters contained in the Committee minutes. There was additional discussion regarding the following matters:

OAR 820-001-0025, OAR 820-001-0030, OAR 820-001-0035 and OAR 820-001-0040

AAG Lozano explained that these rules take the place of the Department of Justice (DOJ) Public Contracts Manual, which was previously adopted by the Board. She explained to newer members that the Board wanted policies in place regarding topics such as contract awarding and dispute procedures, but wanted them to be more specific to the operations of a smaller agency. There was no further discussion.

MODIFYING DESIGNS OR DOCUMENTS

It was moved and seconded (Boyd/Singh) to begin the rulemaking process for OAR 820-010-0622, Modifying Designs and Documents, as amended. There was no additional discussion.

The motion passed unanimously.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

2015 Legislative Concepts

The Board reviewed draft language from AAG Lozano for legislative concepts for the 2015 Legislative Session. AAG Lozano explained that statutory changes are recommended for a number of reasons. First, it would bring OSBEELS' statutes up-to-date with computer-based testing (CBT) procedures. Second, law changes would bring OSBEELS in line with other boards that are adjusting their procedures to best operate with recent and future NCEES examination changes. Finally, NCEES is working toward all CBT examinations and law changes would eliminate potential future conflicts resulting from these and other examination administration changes. Essentially, the key change to OSBEELS' statutes would be the removal of the application for examination process and move to only issuing registration based on comity or 1st registration. All applicants would be required to meet the current statutory standards to qualify for registration. AAG Lozano explained that elimination of OSBEELS' involvement with the

examination process doesn't change any of the registration requirements, but instead changes when proof of meeting those requirements must be submitted.

Mr. Hoffine asked if this would eliminate the four-year experience requirement between the FE and PE. AAG Lozano said the experience requirements would not change and applicants would have to show four years of experience when applying. Ms. Newstetter asked about how the loss of fees would impact OSBEELS' financials. AAG Lozano said there will be little change in fees, as OSBEELS had already elected to waive fees for the FE and FLS examination applications, and that the fees currently paid by applicants are not for the examination itself, but rather for review of their application, which would still occur.

Ms. Newstetter asked if NCEES has any requirements individuals must meet before registering to take an examination. Ms. Lopez said that anyone can take an examination at any time. She added that some states already do not require preapproval before registering for NCEES examinations. Mr. Doane asked how these changes will prevent individuals who have taken both examinations, but don't have any experience from attempting to obtain registration or practice engineering. AAG Lozano said the NCEES requirements, or lack thereof, are inconsequential since registration in Oregon cannot be obtained without meeting statutory requirements -- including experience requirements -- regardless of examination history through NCEES. As a new member, Mr. Kent asked for clarification as to why these statutory changes are necessary. AAG Lozano explained that NCEES determines the examination administration process and doesn't always take into account potential conflicts with member board rules and law/statutes. She said that Oregon, and a number of other boards, had to play catch-up with their rules following the transition to CBT. These statutory changes put OSBEELS ahead of the game and eliminates having statutes on the books with which NCEES testing procedures do not comply. Additionally, statute currently defines a specific order in which requirements must be obtained for individuals applying by comity (i.e. -- FE, then four years of experience, then PE). This is not substantially equivalent with the way some states allow their applicants to complete their experience, education and examination requirements, which has greatly complicated review and approval of comity applicants. Statutory changes would eliminate this order requirement. Also for comity applicants, statutory changes would remove the requirement for determining substantial equivalency of professional examinations (but not for the structural examination). Currently, comity applicants must have taken an examination that was substantially equivalent to the examination administered in Oregon at the time of their initial examination. However, most state boards have few records available describing the content of each examination administered throughout the history of the agency, which can make evaluating substantial equivalency inconsistent or impossible.

There was some discussion of additional examination changes being suggested by professional organizations. The Board also discussed whether to remove the option for enrollment as an engineering or land surveying intern. AAG Lozano said the previous Board seemed committed to keeping this option when the issue was last discussed. Mr. Kent said there is no way to track the state's interns without an enrollment option. Ms. Newstetter asked if there is currently a database of all interns in Oregon. Ms. Lopez said all interns who enroll with OSBEELS are in the OSBEELS database, but engineering and land surveying interns who move to Oregon aren't required to transfer their enrollment. Additionally, not all individuals who have passed the FE or FLS become enrolled as interns, depending on where they took the examination. For example, Michigan offers no certification or registration to individuals who've successfully completed the fundamentals examination. Mr. Burger said he thought removal of the intern enrollment option

would cause repercussions within the engineering field. He explained that the steps toward licensure are part of the engineering culture and many workplace structures and pay grades are based on the individual's position in the licensing process. AAG Lozano said there was no barrier to the intern enrollment option remaining available, if the Board wishes, and that it does remain available under the current draft of the 2015 legislative concept. It was moved and seconded (Boyd/Hoffine) to send the Legislative Concepts, as drafted, to DAS for review. There was further discussion regarding changes to ORS 672.148(4). This statutory change discussed was initially addressed during the 2012 Legislative Session and was a cooperative effort between Sen. Betsy Johnson and OSBEELS. The change allows individuals who have been registered in another jurisdiction for 25 years or more to be granted comity, regardless of examination history. The draft language called for the individual to have been "actively practicing" for a set amount of time prior to application. However, President Tappert said it seems like it would be difficult to maintain objectivity when attempting to determine what qualifies as "actively practicing." Mr. Kent suggested requiring proof of continuing professional development to show active practice. Ms. Lopez pointed out that not all state boards require their registrants to complete continuing professional development. AAG Lozano suggested a combination of references and continuing professional development to demonstrate competency and active practice. Ms. Lopez said the specifications regarding active practice can be prescribed by rule. Rules can be adopted to further clarify the requirements set in statute. Ms. Duquette said she was very concerned with this allowance in statute. She said she understands the purpose of cooperating with legislators to avoid any statutory changes being made without OSBEELS involvement, but she is uncomfortable with the concept. Ms. Duquette added that she would bring this topic up for discussion at the next Structural Engineers Association of Oregon (SEAO) meeting and would encourage opposition of the examination waiver. After discussion, a friendly amendment was moved and seconded (Boyd/Hoffine) to include the changes discussed in the Legislative Concepts being sent to DAS. The Board determined to make the legislative concepts available for review and will host forums for discussion regarding these concepts to get feedback from the public and the professional communities. There was no further discussion. The motion passed; Mr. Doane and Ms. Duquette abstained.

LEGAL BRIEFING

Scope of Board Authority – Consequences to Licensees for Out-of-State Acts

AAG Lozano presented instances where state regulatory boards have taken action against registrants for actions taken outside of the state, even if those actions did not result in regulatory discipline in that other state. For example, if an Oregon engineer designed a bridge in Washington that collapsed and injured or killed people or damaged property, that individual could face sanctions against his Oregon license specifically for this event, regardless of whether or not Washington takes action against the engineer or his Washington license. Currently, OSBEELS only takes disciplinary actions against individuals who have received sanctions in other jurisdictions. AAG Lozano said there is a fairly even split between the states regarding whether to pursue sanctions for conduct violations in other states. Ms. Duquette said she agreed with this stance, as a registered professional should be practicing responsibly, regardless of location.

Ms. Newstetter asked what the next step would be if the Board were interested in implementing a similar rule. AAG Lozano said it could be added to the Board's Rules of Professional Conduct in OAR Chapter 820, Division 20 and the rule could specify that a registrant can't engage in

negligent or incompetent professional practice in any other jurisdiction or country. The current OSBEELS statute allows for discipline for negligence and incompetence without a practice area limitation. Whether such a legal position would be upheld by *Oregon* courts, would then be determined through any appeals on these types of cases. The Board determined to discuss this issue again at the May 2014 Board meeting. 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. Singh asked if there was any program designed for integration of new Board members. He said a half-day introduction to the various policies and procedures would be very helpful. AAG Lozano mentioned that she has been working with Ms. Lopez and Ms. Gilbert on a Board manual and a training program for new Board members. Mr. Singh also suggested partnering new Board members with more experienced members as mentors.
- Mr. Doane mentioned that he had received a survey from Colorado, where he is also licensed, requesting information about military experience and education and if those factors were considered when he applied for licensure. He suggested using a survey or similar method to collect military experience and education information from current OSBEELS registrants. He said this information could be input in the OSBEELS database and a report could be generated to show compliance with the new statutory requirements for consideration of an applicant's military education and experience. AAG Lozano said this year's OSBEELS report only needs to show rules adopted by the agency regarding consideration of these factors. However, she said this is still a good suggestion to keep in mind to comply with possible future reporting requirements, as this type of reporting is already being required of health boards in Oregon. There was no further discussion.

ADJOURN

The meeting was adjourned at 2:11 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.

November 2013 ACTION ITEMS

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

NEXT MEETINGS

Next Board Meeting:

May 13th, 2014