



# Oregon

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STATE BOARD OF EXAMINERS  
FOR ENGINEERING &  
LAND SURVEYING

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## Minutes of Meeting March 8, 2016

### CALL TO ORDER

Vice President Duquette called the meeting to order at 9:05 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:

Christopher Aldridge  
Bill Boyd (joined the meeting at 9:10 a.m.)  
Shelly Duquette  
Ken Hoffine  
Logan Miles  
Ron Singh  
Dave Van Dyke  
Amin Wahab  
Oscar Zuniga

#### Members absent:

Jason Kent (excused)

#### Others Present:

Jenn Gilbert, Executive Assistant  
Jennifer O'Neill, Social and Communications Media Specialist  
Katharine Lozano, Assistant Attorney General (joined the meeting at 9:10 a.m.)  
Michael Hardy, PE  
Kevin Shuba, attorney for John Rasberry, applicant  
Adam Kerper, PE

### PUBLIC INPUT

Chair Duquette explained to Mr. Hardy that his information was received. She further explained that discussion with President Kent must occur prior to responding. Mr. Hardy explained that he would not be able to attend the portion of the meeting concerning Oregon Administrative Rule (OAR) 820-010-0720 and provided his input in a brief statement.

### BOARD CONSENT AGENDA

After a brief discussion, it was moved and seconded (Aldridge/Wahab) to approve the Board

Consent Agenda (Attachment A). The motion passed unanimously. There was no further discussion.

### **ADMINISTRATOR'S REPORT**

In Ms. Lopez's absence, Ms. Gilbert reported that the Examinations and Qualifications Committee, External Relations Committee, Finance Committee, Law Enforcement Committee, Professional Practices Committee, Rules and Regulations Committee, and the Oregon Specific Exam Task Force Committee each met during the interim and that the Committee minutes are made part of the record.

#### ***Oregon State-Specific Principles and Practice of Engineering ("PE") Forest Engineering Examination***

Ms. Gilbert informed the Board that Dr. John Sessions, Forest Engineering examination team liaison, and the Forest Engineering examination team met on February 16<sup>th</sup> in the OSBEELS conference room to prepare for the 2016 Forest Engineering examination. At the conclusion of this meeting, Dr. Sessions provided Ms. Lopez with all of the Oregon state-specific Forest Engineering examination questions and answers electronically. She also received a signed copy of the Work Product Agreement. After the meeting, Dr. Sessions and Forest Engineering examination team member, John Garland informed Ms. Lopez that the team would be recommending revisions to the Forest Engineering examination syllabus. Ms. Lopez inquired if the revisions would be effective for April 2017; the response was no, effective with April 2016 exam administration. Although they assured her the revisions were minor, she communicated her concerns about revising the examination syllabus for the upcoming April administration at this point in time. They then read the current Oregon Specific Exam Policy, specifically Section 4 that refers to the examination syllabus. Dr. Sessions commented that the language was broad and that he would finalize the examination syllabus for the Board's review and consideration.

Discussion was held regarding the changes, the timing, and the language in the current syllabus. It was noted that a majority of the revisions related to references used. Mr. Miles provided his experience with references as a team member of the Oregon Specific Land Surveying examination team. Mr. Zuniga also wondered if there is a requirement for Board approval in the Exam Policy. Ms. Gilbert responded that the Board does need to approve the syllabus. After discussion, it was moved and seconded (Duquette/Hoffine) to approve the Forest Engineering Examination Syllabus for use after the April examination administration. The motion passed unanimously. There was no further discussion.

#### ***2016 Western Zone Meeting***

Ms. Gilbert noted that the 2016 Western Zone Meeting has been scheduled to be held at the Anchorage Marriot Downtown on May 19–21 in Anchorage, AK. Jason Kent, Shelly Duquette, Amin Wahab and Ms. Lopez plan to attend. Since the deadline for delegates and guests to register is Friday, April 15, she requested that Board members who are interested in attending or require assistance in making travel arrangements to contact her.

#### ***National Council of Examiners for Engineering and Surveying***

Ms. Gilbert mentioned that NCEES extended an invitation to the Board to observe the professional examination administration and if the Board selects observers, NCEES must know by Friday, March 18. There was no further discussion.

### ***10th Annual Engineering Week Career Exploration – Southwestern Oregon Community College***

Ms. Gilbert reported that in addition to managing an OSBEELS booth at the Southwestern Oregon Community College (SOCC) on February 24<sup>th</sup>, to celebrate the 10<sup>th</sup> Annual National Engineer’s Week, Brianna Weekly and Danee Vig, Administration Specialists presented information about OSBEELS. Their attendance was well received.

### ***Professional Land Surveyors of Oregon (PLSO) – Willamette Chapter***

Ms. Gilbert informed the Board that PLSO requested OSBEELS’ participation during their meeting on March 21<sup>st</sup> to provide presentations on Obtaining Registration and Continuing Professional Education Requirements in Oregon. Staff from the Registration and Accounting Departments are scheduled to present.

### ***Board Vacancies***

Ms. Gilbert briefly noted that the Governor’s Office has yet to fill the engineering position vacated by Mr. Burger (ORS 672.240(1)(c)).

### ***Staffing***

Ms. Gilbert announced that on February 11<sup>th</sup>, Denise Warburton began training provided by the State of Oregon: State Certified HR Professional Program. This is an instructor-led program with 11 days of in-class instruction held over a period of 11 months.

She updated the Board that a second round of interviews to fill the third Compliance Specialist 2 (Investigator) position will be conducted on Thursday, March 10<sup>th</sup>. Interviews to fill the third Administrative Specialist 2 (Registration Specialist) position will be conducted on Monday, March 14<sup>th</sup>. Lastly, she informed the Board that the Social & Communications Media Specialist Jennifer O’Neill submitted her resignation on February 29<sup>th</sup>; her last day in the office will be March 11<sup>th</sup>.

### **PRESIDENT’S REPORT**

There was no President’s Report.

### **EXAMINATIONS AND QUALIFICATIONS COMMITTEE**

#### **OAR 820-010-4000**

Ms. Duquette explained the proposed revisions to OAR 820-010-4000 that require passage of the building portion of the NCEES 16-hour structural examination. After a brief discussion, it was moved and seconded (Aldridge/Wahab) to begin the Rulemaking process to amend OAR 820-010-4000 and to begin the temporary Rulemaking process of OAR 820-010-4000. The motion passed unanimously. There was no further discussion.

#### **Denial recommendations**

Ms. Duquette summarized the individuals recommended by the EQC for denial. After a brief discussion, it was moved and seconded (Aldridge/Zuniga) to approve the 13 denial recommendations listed. The motion passed unanimously. There was no further discussion.

## **EXTERNAL RELATIONS COMMITTEE**

### Oregon Examiner Article – Land Surveying Topics Discussed by the Board

Mr. Wahab briefly summarized the article recommended for the Board's approval. Mr. Singh expressed that the purpose and conclusion of the article was unclear. Mr. Miles agreed. Ms. Gilbert explained that the article was initially considered during the February 2014 ERC meeting and postponed until further research could be conducted. AAG Lozano explained the intent of the article. Mr. Miles suggested that some clarity be added in the article regarding verbal notice for right of entry. Mr. Singh suggested pulling the previous right of entry article to ensure the same information is being addressed. He also commented that the additional confusion on his part is due to the pending advice on right of entry for city and county employees. It was moved and seconded (Duquette/Van Dyke) to return the article to a future ERC for revisions in clarity and consistency. Mr. Singh made a friendly amendment to the motion that the ERC consider waiting for the AAG Opinion regarding the exemptions for certain jurisdictions and to add information on the right of entry for railroad property, entering upon easements in public right of way, and personal notice. He also added that if the previous article was well enough written, maybe a FAQ article be written lieu of the current article being considered. Mr. Zuniga seconded the motion. AAG Lozano added that if the Board would like to make any statutory changes, the legislative concepts would need to be drafted soon. The motion, with the friendly amendment passed unanimously. There was no further discussion.

### Oregon Examiner Article – May 10, 2016 Rules Hearing

Mr. Wahab listed the OARs proposed for revisions. It was moved and seconded (Wahab/Duquette) to approve the May 10, 2016 Rules Hearing article for publishing. The motion passed unanimously. There was no further discussion.

### Oregon Examiner Article – Professional Surveying Computer Based Testing

After a brief discussion, it was moved and seconded (Aldridge/Miles) to approve the Professional Surveying Computer Based Testing article for publishing. The motion passed unanimously. There was no further discussion.

### 2016 OSBEELS Symposium - September 16, 2016

Mr. Wahab informed the members that the ERC determined "Water" for the theme of the 2016 OSBEELS Symposium. Board members Duquette and Miles provided suggestions for topics and names to contact for possible presentations. There was no further discussion.

### PEO Annual Conference – Joint Meeting

The Board discussed the request from Professional Engineers of Oregon (PEO) to hold a joint pre-Board meeting, similar to the one held last year in Sunriver. As recommended by the ERC, the Board will decline the invitation. There was no further discussion.

### PEO Annual Conference – Guest Speaker

After briefly mentioning that Jason Kent volunteered to attend the PEO Annual Conference and present on behalf of OSBEELS, there was no further discussion.

## **FINANCE COMMITTEE**

Mr. Zuniga summarized the information discussed in the February Finance Committee meeting minutes.

### Board Travel Policy

A brief explanation of the changes made to the Board Travel Policy, it was moved and seconded (Duquette/Boyd) to adopt the Policy. The motion passed unanimously. There was no further discussion.

### Alternate Check Signor

Mr. Zuniga briefly summarized the request for the change in the Board's alternate check signor. It was moved and seconded (Singh/Wahab) to approve changing the alternate check signor to the staff member holding the HR Manager position. The motion passed unanimously. There was no further discussion.

### 2013 – 2015 Financial Audit

Mr. Hoffine wondered why the audit was received after the deadline contained in the contract. Staff explained that a reason was not given. AAG Lozano explained that this was a breach of contract, however, the more important issue was to have a complete audit in order for staff to comply with the deadline in statute for submitting the report as required by ORS 182.472. Ms. Gilbert added that the CPA assisting with the audit efforts was unavailable to attend the meeting, but is willing to answer any questions they may have either by email or attendance at a future meeting.

Mr. Zuniga brought to the members' attention the Deposits section under the Notes to the Basic Financial Statements portion of the audit. AAG Lozano explained that it would be prudent to move funds to ensure lower risk. Mr. Hoffine provided a suggestion of opening another account to address the concern. It was moved and seconded (Boyd/Hoffine) to move the legal reserve funds to a different account. For clarification, it was asked if it would be to another institution or account. AAG Lozano confirmed that it would be another institution. Ms. Gilbert suggested contacting a CPA for guidance. Mr. Boyd explained that it is a simple concern and at least minimal steps be made. Mr. Zuniga commented that the Finance Committee is in the process of reviewing the Board's Investment Policy and perhaps this issue can also be resolved through this review. Mr. Hoffine expressed that the concern should be addressed while the ironing out process occurs. Chair Duquette made an amendment to the motion, that before opening another account, a CPA is contacted for advice. Mr. Singh seconded. The motion passed unanimously. There was no further discussion.

Ms. Gilbert explained that the draft audit must receive Board approval before it can be dated by the auditors and a final audit issued. A discussion was held regarding the Board's options to review and schedule a Special Board meeting. Staff will create a DoodlePoll to schedule a Special Meeting to consider the audit for the 2013 – 2015 biennium. There was no further discussion.

## **LAW ENFORCEMENT COMMITTEE**

### LiDAR, Remote Sensing, and Emerging Technologies – Ron Singh

Mr. Singh provided a presentation to the Board on LiDAR and Remote Sensing Technologies (satellite, airborne, terrestrial, bathymetric, subsurface) to share what is changing in the world of surveying. A variety of affordable remote sensing technologies now enables individuals to take precise measurements who are not necessarily knowledgeable or experienced in the field. He then explained the current technology implementation and added that with the acceleration of LiDAR and imagery there is a lack of standards and errors can be made. A lengthy discussion was held regarding the effects of these emerging technologies and the effects on the safety of the public and how the current statutes would apply.

#### Case #2894 – Baker, Theodore

Mr. Boyd summarized the informal conference held with Theodore Baker for case #2894 and the resulting recommendation from the LEC to close the case with a letter of concern. Mr. Singh added that the LEC suggested an article be drafted clarifying that most monuments along the right of way are held in private ownership and notice is required before surveying. It was moved and seconded (Boyd/Miles) to close the case with a letter of concern. The motion passed unanimously. There was no further discussion.

#### Case #2902 – Rohlik, Jan

Mr. Boyd summarized case #2902 regarding Jan Rohlik and the LEC recommendation to issue a Default Final Order. Since Mr. Rohlik accepted the NOI as issued, it was moved and seconded (Boyd/Duquette) to issue the Default Final Order. The motion passed unanimously. There was no further discussion.

#### Case #2928 – Ryan, Anthony

Mr. Boyd summarized the informal conference held by telephone with Anthony Ryan for case #2928 and the resulting recommendation from the LEC to withdraw the NOI and issue a letter of reprimand. A discussion was held regarding the temporary stakes that were put in place along the boundary line but not removed, and that ultimately, it is the responsibility of the professional land surveyor to remove the stakes pursuant to ORS 672.047(7). If temporary stakes are not removed, written authorization must be received to leave the materials in place. It was moved and seconded (Duquette/Zuniga) to issue a Final Order. The motion failed (opposed – Miles, Zuniga, Singh, Wahab, Aldridge, Van Dyke, Hoffine/favored – Duquette, Boyd). A second motion was made: it was moved and seconded (Hoffine/Aldridge) to withdraw the Final Order and issue a letter of concern. The motion passed (Duquette opposed). There was no further discussion.

#### Case #2945 – Grover, Kelli

Mr. Boyd summarized the informal conference held with Kelli Grover for case #2945 and the resulting recommendation from the LEC to withdraw the NOI and issue a letter of concern. It was moved and seconded (Duquette/Boyd) to close the case with a letter of concern. The motion passed unanimously. There was no further discussion.

#### Case #2947 – Bliss, Gary

Mr. Boyd summarized case #2947 regarding Gary Bliss. Chair Duquette wondered how it was not considered engineering if he provided engineering input as a retired engineer. Mr. Boyd explained that an extensive conversation was held regarding the case during the February LEC

meeting. AAG Lozano elaborated that after the discussion during that meeting did not appear to fall heavily on the side of offering professional services rather than participating in a public forum as a retired engineer. A discussion was held regarding offering professional services. It was moved and seconded (Boyd/Wahab) to close the case as compliance met. The motion passed unanimously. There was no further discussion.

#### Case #2950 – Skyris Imaging, LLC.

Mr. Boyd summarized case #2950 regarding Skyris Imaging, LLC. Staff explained the thorough review of the website during the investigation phase. After discussion, it was moved and seconded (Boyd/Duquette) to close the case as allegations unfounded. The motion passed unanimously. There was no further discussion.

### **RULES AND REGULATIONS COMMITTEE**

#### OAR 820-010-0635

Mr. Wahab summarized the proposed changes to OAR 820-010-0635 – Continuing Professional Development. It was moved and seconded (Duquette/Boyd) to begin the rulemaking process for OAR 820-010-0635. The motion passed unanimously. There was no further discussion.

#### OAR 820-015-0075

Mr. Wahab summarized the proposed rule for adoption; OAR 820-015-0075 – Civil Penalties for Violations of ORS 537.797, ORS 672.255, and Commission Rules. After discussion, it was moved and seconded (Wahab/Duquette) to begin the rulemaking process on OAR 820-015-0075, as amended. The motion passed unanimously. There was no further discussion.

#### OAR 820-040-0010

Mr. Wahab summarized the proposed changes to OAR 820-040-0010 – Electrical Engineering. AAG Lozano added that certain language needed to be removed because the Board lacked the authority to require. Chair Duquette noted that subsection (2)(i) references UBC 1807 which does not apply. It was moved and seconded (Duquette/Boyd) to begin the rulemaking process for OAR 820-040-0010, as amended. The motion passed unanimously. There was no further discussion.

#### OAR 820-040-0020

Mr. Wahab summarized the housekeeping changes to OAR 820-040-0020 – Structural Engineering. After discussion, it was moved and seconded (Wahab/Boyd) to begin the rulemaking process for OAR 820-040-0020. The motion passed unanimously. There was no further discussion.

#### OAR 820-040-0040

Mr. Wahab summarized the proposed changes to OAR 820-040-0040 – Geotechnical Engineering. After discussion, it was moved and seconded (Boyd/Duquette) to begin the Rulemaking process for OAR 820-040-0020. The motion passed unanimously. There was no further discussion.

### **UNFINISHED BUSINESS**

#### Right of Entry and Railroad Property response

The Board recapped the discussion held during the January Board meeting on the Question Form received by David Artman inquiring about the right of entry and railroad property. Staff provided the Board with the draft response to Mr. Artman. Additional discussion was held regarding the Board's jurisdiction and railroad property. After discussion, it was moved and seconded (Duquette/Boyd) to approve the draft response as amended. The motion passed unanimously. There was no further discussion.

## **NEW BUSINESS**

### Collaborative Rulemaking Process for Land Surveying

AAG Lozano explained what collaborative rulemaking would look like and that many agencies undergo the process. The Board discussed the benefits of the process as it relates to land surveying practices. After a lengthy discussion, Chair Duquette tabled the discussion until the next Board meeting and requested AAG Lozano to provide additional information regarding the process.

### Right of Entry – Ryan Erickson

The Board received a Question Form from Ryan Erickson asking if the example he included of the two-sided business card satisfies the notice requirements of ORS 672.047. A lengthy discussion was held regarding the confusion that may occur with having a right of entry notice on the backside of a business card or other unobvious method of providing notice. It was moved and second (Duquette/Wahab) to provide Mr. Erickson with a response explaining that his business card does not comply and to decline answering his final question. Mr. Van Dyke expressed concern with the motion on the table. AAG Lozano provided a few definitions of the term "notice." Additional conversation was held regarding the response being provided to Mr. Erickson. The Board discussed a possible response to include the Board's concerns given the dual purpose and recommend against the use of a business card and to use a more explicit means of serving a notice for right of entry. Staff was directed to draft a response to be considered during the next Board meeting. Chair Duquette withdrew her motion. She also directed staff to contact PLSO and confirm that the door hanger being reviewed is in fact currently being distributed by PLSO.

### Committee Assignments

Chair Duquette explained the changes made to the Committee Assignments. After discussion, it was moved and seconded (Duquette/Aldridge) that Mr. Kent and Ms. Duquette serve as the voting members on the Joint Compliance Committee (JCC) with Mr. Seward acting as the alternate member. The motion passed unanimously. There was no further discussion.

## **LEGAL BRIEFING**

**The Board entered into executive session pursuant to ORS 192.660 (2)(f) to review written advice from legal counsel (privileged and confidential attorney-client communications, which are exempt from public inspection). All members of the audience were asked to leave the room 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 while in executive session.**

Upon exiting executive session, Chair Duquette asked that the Board begin the process in drafting the Board Member Absence Policy. Board members provided personal input on the

matter of the Absence Policy. Mr. Miles suggested making a list of what would be considered an unexcused absence. A discussion was held regarding reasonable absences. After discussion, Chair Duquette offered to draft the Policy to be considered during the May Board meeting. There was no further discussion.

It was moved and seconded (Duquette/Boyd) that OAR 820-010-0720 be referred back to the RRC for revisions. The motion passed unanimously. There was no further discussion.

Acceptable leave and definition of project site – Lance King  
Rules and regulations for engineering work done outside of the USA – Mathieu Gagné  
Items were tabled for discussion at a later date.

#### Trademark Issues

A discussion was held regarding the issue with the misuse of the term “engineer.” Chair Duquette suggested that the Board work constructively with the Oregon State University (OSU) School of Engineering to correct the issues regarding the use of the term “engineer.” It was determined that staff should draft correspondence to OSU for further discussion to be held during the next Board meeting in May under Unfinished Business. There was no further discussion.

#### **BOARD MEMBER COMMENTS**

There were no comments.

#### **ADJOURN**

The meeting was adjourned at 3:27 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**

May 10, 2016



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*March 8, 2016 Board Meeting*

The following consent agenda is presented for the March 8, 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 March 8, 2016 Board meeting agenda.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
2	Approve January 12, 2016 Board meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
3	Approve February 11, 2016 LEC meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
4	Approve February 26, 2016 EQC meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
5	Approve February 26, 2016 ERC meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
6	Approve February 26, 2016 FC meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
7	Approve February 26, 2016 OSETF meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
8	Approve February 26, 2016 PPC meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
9	Approve February 26, 2016 RRC meeting minutes.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
10	Approve Registration Approval List.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>
11	Approve EQC Final Orders.	<u>Motion/Second</u> <u>(Aldridge/Wahab)</u>