



Oregon

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

670 Hawthorne Ave. SE, Suite 220

Salem, OR 97301

(503) 362-2666

Fax (503) 362-5454

E-mail: osbeels@osbeels.org

PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting

December 13, 2013

Members present:

Sue Newstetter, Chair

Shelly Duquette

Anne Hillyer

Staff present:

Mari Lopez, Executive Secretary

Jenn Gilbert, Executive Assistant

Joy Pariente

Others present:

Katharine Lozano, Assistant Attorney General

The meeting of the Professional Practices Committee (PPC) was called to order at 1:02 p.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220 Salem, OR 97301.

Public Comment

There were no public comments.

Unfinished Business

Meaning of ORS 215.080

Steve Haddock posed a question to the Committee during the April 2013 meeting, regarding the meaning of ORS 215.080 Power to enter upon land. As a result, the Committee requested AAG Lozano to research the matter and provide advice.

The Committee exited its public meeting pursuant to ORS 192.660(2)(f) to review records exempt from public inspection. All members of the audience were asked to leave the room for these deliberations and were invited to return upon resumption of the public meeting. Upon returning to public meeting, it was noted that no decisions were made and no votes were taken.

After discussion, the Committee recommends the Board waive privilege on the AAG Opinion explaining ORS 215.080, as the information contained would be beneficial to registrants and the public.

Software Engineering

The Committee reviewed information regarding software engineer registration submitted by Richard Balkins. Ms. Newstetter summarized the history of the software engineer registration

discussions for Ms. Duquette, who is new to the Committee. Ms. Duquette asked what is to be gained by licensing software engineers in regards to life and safety concerns. Ms. Newstetter explained concerns raised by professional engineers in the field regarding the programming for traffic lights, water treatment facilities, construction and other public works projects. Ms. Hillyer said a coworker had mentioned that licensure could limit malware development and hacking for fear of losing licensure. AAG Lozano said that would be a very optimistic opinion on software engineer licensure. Ms. Newstetter directed Staff to respond to Mr. Balkins to inform him that the Board is still gathering information and engaging the public on this issue and no decisions regarding registration requirements are predicted in the near future.

Clarification on Engineers Performing Survey Work

This issue was initially discussed during the October 2013 Committee meeting. A registrant submitted a question to the Committee regarding engineers performing surveying work. The registrant's firm has previously performed topographic surveys and they would research map of surveyor for that parcel and pick up the locations of the property pins noted on the map of surveys as part of the field work. Property lines would then be drawn in based on the recorded map of surveys and a note was added to explain the origin of the information on the property lines. A former employee was told by the county surveyor that this procedure was acceptable. However, the registrant is concerned that this type of survey activity is prohibited under ORS 672.005.

Ms. Newstetter noted that there was a law enforcement case concerning a similar situation where an engineer was surveying and incorrectly documented information resulting in errors in a series of boundary lines. She noted that you must be very cautious when using existing monuments and maps of survey because they're not always accurate – actual survey skills and knowledge are needed to ensure accuracy. Ms. Lopez said that case was from 2011 and it was Case Number 2545 concerning Dwayne H. Kliewer, PE. The Committee determined to communicate the details and final outcome of this case to the questioning registrant to answer his question regarding engineers performing surveying work.

New Business

Digital Signatures – Carl Tappert

Mr. Tappert submitted a concern regarding QuestCDN online bidding and an example bid posted by a company in Coos Bay. It was unclear whether the concern was with the online bidding forum or the Coos Bay company. The Committee directed Staff to request Mr. Tappert's presence at the February 2014 Committee meeting to clarify his question regarding digital signatures.

Questions Regarding a Postcard – Robert Demers, Jr.

Mr. Demers submitted a copy of a business postcard he and his partner were planning on sending to advertise their flood insurance cost reduction services. He wanted to ensure the language on the postcard did not violate any OSBEELS rules or statutes. AAG Lozano recommended Staff send Mr. Demers OAR 820-010-0720, which discusses what actions constitute offering services. Mr. Demers should have his postcard reviewed with this rule by his own legal counsel.

Interpretation of ORS 672 – Redi Pour Wall Systems

Richard Boydston of Redi Pour Wall Systems submitted a question regarding ORS 672 and robotic workstations used to create topographic maps. AAG Lozano noted that this question

pertains to an ongoing preliminary evaluation and the Board cannot answer questions pertaining to open cases. The preliminary evaluation will be discussed during the February 2014 Law Enforcement Committee meeting.

Acoustical Analysis – Mark Bastasch

Mr. Bastasch submitted a question regarding OAR 340.035 and if a professional engineer is required to prepare the noise analysis contained in the Applications for Site Certification required by the Oregon Department of Energy. Ms. Duquette said Mr. Bastasch's definition of "noise analysis" was unclear. The Committee determined to refer Mr. Bastasch to the OSBEELS rules regarding the practice of engineering and to inform him to contact OSBEELS with any further questions not answered by rule.

Filing of Boundary Line Adjustment Map

Ms. Newstetter submitted a question regarding OAR 820-030-0060 and ORS 209.250. She explained that monuments were set as part of a boundary line agreement survey. The surveyor attempted to file this map within the 45-day period required. However, the county surveyor would not file the map because there are no deed references for the boundary adjustment tracts. The surveyor explained that no deeds have been filed on this property yet.

Ms. Lopez pointed out that this issue has been referenced in previous AAG opinions. AAG Lozano explained that all county surveyors fall under OSBEELS jurisdiction because they are all registered professional land surveyors. Additionally, if the surveyor noted "no deeds filed" in his narrative, then it would be in compliance and the county surveyor must file it. In this situation, she explained, the county surveyor would not be protected under ORS 209.250(4)(D) and (E). AAG Lozano offered to research previous AAG opinions, rules and statutes related to this situation. The Committee determined to further discuss this question during the February 2014 Committee meeting.

Dust Control Plan – Adam Barber

Mr. Barber submitted a question regarding dust control plans. He is a land use planner with Multnomah County and they are contemplating adding a new standard to the non-residential development code requiring a dust mitigation plan when a gravel access driveway is proposed in certain circumstances. He was inquiring about whether a PE has the credentials to assess the possibility of dust creation from automobiles traveling along a gravel drive and if this PE could subsequently help craft a dust mitigation strategy for a proposed project so that dust does not impact surrounding properties.

The Committee members acknowledged that they are aware of dust control as being a form of erosion control and involving wind breaks, use of binding agents and gravel use, but they're not comfortable making determinations on dust control plans without consulting with the civil engineering Board members for additional information. **The Committee determined to discuss dust control plans with the full Board during the January 2014 Board meeting.**

Electronic Documents – A Draft Interpretative Guideline (WA)

The Committee reviewed the Draft Interpretive Guideline used by Washington in regards to electronic documents. The Committee agreed that the guideline addresses many excellent points that come up often during Committee meetings. Ms. Lopez said Kristi Nelson from HDR communicated this information because of concerns regarding outdated information provided on the OSBEELS website. The Committee wondered if Ron Singh should be consulted regarding

the electronic document information, since he was the individual who drafted the original guidelines for OSBEELS. **The Committee determined to discuss creating a task force for digital signatures and electronic document policy updates with the full Board during the January 2014 Board meeting.**

The meeting adjourned at 2:17 p.m.