



Oregon

State Board of Examiners for
Engineering & Land Surveying
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Minutes of Meeting
July 10, 2012

CALL TO ORDER

Due to the lack of appointments to the Board for recently elapsed terms, advice on whether there were sufficient members for a quorum was requested. Upon receipt of advice from the Department of Justice, it was determined that a quorum was present. Accordingly, President Linscheid called the meeting to order at 10:10 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.

Members Present:

Dan Linscheid
Steven Burger
Ken Hoffine
Sue Newstetter
Carl Tappert
Amin Wahab
James Doane (excused absence)

Others Present:

Mari Lopez, OSBEELS Executive Secretary
Jenn Gilbert, OSBEELS Executive Assistant
JR Wilkinson, OSBEELS Investigator
Joanna Tucker-Davis, Assistant Attorney General
Kristi Nelson, PE

APPROVAL OF AGENDA

It was moved and seconded (Tappert/Newstetter) to approve the agenda as presented. The motion passed unanimously.

APPROVAL OF MINUTES

Ms. Newstetter requested to delete the last sentence of the first paragraph in the President's Report on page 4; she may have incorrectly made that statement. Gary Johnston would not attend a meeting of the Blue Mountain Chapter since he is from the Salem area. It was moved and seconded (Tappert/Wahab) to approve the minutes of the May 8, 2012 Board Meeting as amended. The motion passed.

PUBLIC INPUT

Kristi Nelson introduced herself to the members. She explained her reason for approaching the Rules and Regulations Committee (RRC) during June and her presence during this Board meeting to discuss digital signatures and specifically the requirement stated in the minutes of the October 15, 2010 meeting of the RRC that requires a third party certificate authority to verify signature certificates. Through her research, she informed the members that the third party certificates do not necessarily provide more security with respect to digital signatures and that

the rules can be met through the self-issued certificates via Adobe. Ms. Nelson continued on to explain the process used to verify signatures with the Adobe program. After discussion, the members agreed a revision to the rule as currently written is not necessary. However, it was firmly stated that it is not the Board's intent to specify or require specific technology or methods in applying digital signatures. It is the responsibility of the registrant using the digital signature to ensure it meets the requirements of Oregon Administrative Rule (OAR) 820-010-0620(5); including the requirement that the digital signature is capable of verification. There was no further discussion.

EXECUTIVE SECRETARY'S REPORT

Committee Activities

Ms. Lopez reported that the Examinations and Qualifications (E&Q) Committee, External Relations Committee (ERC), Finance Committee (FC), Law Enforcement Committee (LEC), Professional Practices Committee (PPC), and the RRC each met during the interim. The Committee minutes were included in the packets.

Administrative Activities –

Oregon Specific/National Council of Examiners for Engineering and Surveying (NCEES) Examinations

Ms. Lopez briefly mentioned that the examination results were sent to the examinees of the Fundamentals of Engineering (FE), the Professional Engineering (PE), the Fundamentals of Land Surveying (FLS), the Professional Land Surveying (PLS), and the Water Rights Examiner (WRE) examinations. Staff is preparing for the October 2012 examination administration.

2012 Joint Central/Western Zone Meeting

From May 17-19, 2012, Ms. Lopez reported that she attended the NCEES 2012 Joint Central/Western Zone meeting in Jackson Hole, Wyoming along with Dan Linscheid, Sue Newstetter, and Amin Wahab. She participated in the Member Board Administrators Forum that was held on May 19, 2012 to discuss miscellaneous issues. Ms. Lopez noted that two administrative highlights of the meeting were regarding Computer Based Testing (CBT) and a NCEES centralized reporting database for Continuing Professional Development (CPD) hours. After discussing the CBT process, OSBEELS staff will provide a memo to the E&Q Committee with considerations related to CBT examination administrations.

2012 NCEES Annual Meeting

Ms. Lopez stated that arrangements have been made for the NCEES Annual Meeting that will be held from August 22-25, 2012 at the Hyatt Regency St. Louis at The Arch in St. Louis, Missouri. Consistent with the past meetings, President Linscheid is the NCEES Funded Delegate. NCEES Annual Meeting Business Delegate Notification response is needed by July 13, 2012 for those who wish to attend as a business delegate. Mr. Hoffine showed interest and will inform Ms. Gilbert no later than July 12, 2012 if his schedule permits him to attend. Ms. Newstetter and Mr. Wahab will also join Ms. Lopez in attending the meeting.

2009-2011 Biennial Audit

Ms. Lopez noted that the audit report from the Secretary of State Audits Division, as well as the letter from Moss Adams was included in the Board packets. Ms. Newstetter briefly commented

that she believed it was a good report and the comments given related to seeking an outside CPA with more governmental auditing experience will be considered.

Board Vacancies

Ms. Lopez briefly mentioned that the Governor's Office has yet to fill the vacancies with the Board. A telephone conversation with the Governor's Office staff leads her to believe the vacancies will be filled shortly.

Staffing

Ms. Lopez informed the members that Amanda Sloan is currently on maternity leave. Baby Sloan arrived on Sunday, June 24, 2012 and Ms. Sloan is scheduled to return to work on September 24, 2012. There was no further discussion.

President Linscheid then took the Board into Executive Session as provided by Oregon Revised Statute (ORS) 192.660(2)(i) to discuss the annual evaluation of the Executive Secretary.

Upon returning to open session, it was noted that no action was taken during Executive Session.

As a result of the discussion held during the Executive Session regarding the annual evaluation of the Executive Secretary, it was moved and seconded (Hoffine/Wahab) that Ms. Lopez would not receive a step-increase due to reaching the top range of the salary classification. A friendly amendment was made and seconded (Tappert/Newstetter) to award Ms. Lopez an additional 40 hours of management leave. The motion and friendly amendment passed unanimously. There was no further discussion.

PRESIDENT'S REPORT

President Linscheid provided a report in the Board packets regarding the NCEES 2012 Joint Central/Western Zone meeting held in Jackson Hole, Wyoming. There were no comments made with regard to his report. Ms. Newstetter briefly noted that she has been invited to the Idaho Board annual retreat. During this retreat, the members of the Idaho Board discuss the materials provided related to the NCEES Annual meeting. This retreat will occur during the first week in August in Riggins, Idaho. There was no further discussion.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Mr. Burger reported that the E&Q Committee met on June 15, 2012, to discuss the matters as contained in the Committee minutes. Additional discussion was held regarding the following matters:

April 2012 Oregon Specific Forest Engineering Examination Results

President Linscheid then took the Board into Executive Session as provided by Oregon Revised Statute (ORS) 192.660(2)(f) to consider information or records that are exempt by law from public inspection (advice provided by AAG Tucker-Davis).

Upon returning to open session, it was noted that no action was taken during Executive Session.

After discussion, Mr. Tappert noted that sufficient grounds exist to discontinue the Forest engineering examination. However, it was suggested that a last attempt would be made, by letter from the Board President, to obtain compliance with the Forest Engineering Examination Development Team. In order to continue the administration of the Oregon Specific Forest Engineering Examination, the letter would reinforce the requirements contained in the Oregon Specific Examination Policy. Ms. Newstetter suggested sending a copy of the letter to the Forest Engineering Department Head at the Oregon State University (OSU) since OSU offers a program that may no longer lead to registration. It was moved and seconded (Newstetter/Hoffine) to send a letter to Marv Pyles, with a copy to OSU, that the examination materials, including a graders key are due in the Board office no later than October 31, 2012. The motion passed unanimously. A discussion will be held during the November Board meeting to determine if the administration of the Forest Engineering Examination will continue. Staff will draft the letter for President Linscheid to sign.

Applications for Registration

Professional Engineer by Comity – Mr. Burger directed the members’ attention to the list of 71 applicants for registration as a professional engineer by comity. It was moved and seconded (Burger/Tappert) to approve the list of 71 professional applicants as presented. The motion passed unanimously.

1st Registration Applications – Mr. Burger directed the members’ attention to the 10 applicants seeking 1st registration. It was moved and seconded (Newstetter/Tappert) to approve the 10 applicants as presented. The motion passed unanimously.

EXTERNAL RELATIONS COMMITTEE

Mr. Wahab reported that the ERC met on June 15, 2012, to discuss the matters as contained in the Committee minutes. Additional discussion was held regarding the following matters:

Oregon Examiner

It was moved and seconded (Wahab/Newstetter) to approve three article for the next edition of the Oregon Examiner. The motion passed unanimously. The three articles were *OSBEELS at STEM Day at UCC, Software Engineering Certification Exam, and Investigation and Enforcement.*

Promotional Posters

It was moved and seconded (Wahab/Newstetter) to approve the Engineering Poster 1 and Engineering Poster 2 as presented. The motion passed unanimously.

Intern Declarations

It was moved and seconded (Wahab/Newstetter) to approve the Engineering Intern and Land Surveying Intern declarations as presented. The motion passed unanimously. The new intern declarations will be awarded, effective with the October 2012 administration, to the individuals who successfully pass the fundamentals examinations.

FINANCE COMMITTEE

Mr. Tappert reported that the FC met on June 15, 2012, to discuss the matters as contained in the Committee minutes. There was no further discussion.

Review of Financial Reports

Members reviewed the Statement of Net Assets and the Profit & Loss Budget Overview as of May 31, 2012. There was no further discussion.

LAW ENFORCEMENT COMMITTEE

Mr. Tappert reported that the LEC met on June 14, 2012, to discuss the matters as contained in the Committee minutes. Additional discussion was held regarding the following matters:

Mr. Tappert reported the Committee had two informal conferences scheduled with registrants who reside in South Korea. Before the start of the informal conferences, there was a discussion about whether the Board, or the respondent in law enforcement cases, should bear the cost of translation services. In this instance, the Board paid Kasey Yim, who is a Korean language interpreter certified by the Oregon Department of Justice, to provide translation. This was contrary to prior attempts when the Committee used the AT&T Conference Center and a translator provided by AT&T. Mr. Tappert concluded that the Board should pay for the service because the Board can have greater confidence in the translations services. The Committee was satisfied with the translator and with the outcome of the informal conferences.

Informal Conferences

2619 – Gary K. Underhill / OSBEELS

Mr. Tappert reported that the Committee met in an informal conference with respondent Gary K. Underhill, PE, to discuss a Notice of Intent (NOI) to assess a \$1,000 civil penalty for unlicensed practice of engineering violating ORS 672.020(1), ORS 672.045(1),(2), and OAR 820-010-0720(1). Mr. Underhill submitted a signed renewal form along with his renewal payment, but was assessed a delinquency fee because payment was received after his renewal date. He contacted the Board on an unrelated matter in May 2010 and was told that he was not registered to practice engineering because of the delinquency fee. He also indicated he had engaged in the practice of engineering while delinquent, so a case was opened. Mr. Tappert informed that Mr. Underhill immediately took care of his registration, admitted to the violation, and outlined what procedures he had taken to avoid a similar mistake. He added the Mr. Underhill even did an inventory of his office in an attempt to find the delinquency notice. Nevertheless, the Committee accepted Mr. Underhill's admission and his efforts to correct the problem. As a result, the Committee recommended the Board withdraw the NOI and send a letter of concern regarding timely renewal of his professional registration. It was moved and seconded (Tappert/Newstetter) to withdraw the NOI and issue a letter of concern. The motion passed unanimously.

2649 – Yong-su Cho / OSBEELS

Mr. Tappert reported that the Committee met in teleconference with respondent Yong-su Cho, PE (delinquent), to discuss a Notice of Intent to suspend registration for 90 days and to assess a \$2,000 civil penalty (NOI) for violation of ORS 672.200(4), OAR 820-010-0635(1),(5), OAR 820-015-0026(1), and OAR 820-020-0015(7),(8). Mr. Cho is a South Korea resident who signed

a renewal form certifying he completed the required professional development hour (PDH) units. However, Mr. Cho did not respond to the audit until the second notice when he submitted a Continuing Professional Development (CPD) Organizational Form claiming 60 PDH units, but no supporting documentation. Eventually, Mr. Cho submitted compliant CPD documentation. Through the translator, Mr. Cho explained there was difficulty in meeting the audit deadlines because the notices were received too late. He explained that his company did not move, but his offices moved and mail was delayed. In addition, he spent time working out of the office. He also was confused about submitting an address change notice. After verifying that the address on file was correct, the Committee offered to reduce the civil penalty to \$250 for failing to cooperate with the audit. Mr. Cho disagreed, but came to realize there were email exchanges with investigators where he did not respond with the information. It was moved and seconded (Tappert/Newstetter) to approve the settlement agreement with Mr. Cho. The motion passed unanimously.

2677 – Chul Hwan Shim / OSBEELS

Mr. Tappert reported that the Committee met in a teleconference with respondent Chul Hwan Shim, PE, to discuss a Notice of Intent (NOI) to assess a \$1,000 civil penalty for failing to submit a change of address violating OAR 820-010-0605. Mr. Shim is a resident of South Korea who signed his renewal form certifying he had completed the required PDH units. However, he failed to respond to audit notices, but he did respond to an investigator's email inquiry. Mr. Shim submitted documentation found compliant with CPD requirements. However, Mr. Shim failed to comply with the audit because he had not changed his address. Through the translator, Mr. Shim explained he changed employers and notified the Board of his address change by email. He believed his address had been changed. When asked if he changed jobs, he had and he provided the new address to Board Investigator McCartt. The Committee offered to reduce the civil penalty to \$100 if Shim would admit that he failed to update the Board on his address. It was moved and seconded (Tappert/Newstetter) to approve the settlement agreement with Mr. Shim. The motion passed unanimously.

2618 – Ruben M. Martinez / OSBEELS

Mr. Tappert reported that the Committee discussed that Ruben Martinez, PLS (revoked), submitted a complaint to the Board and used the title of PLS with a Portland address. When he was told he could not use the title in Oregon, he continued to do so in further communications with the Board. Therefore, a law enforcement case was opened. Mr. Tappert added that Mr. Martinez declined an informal conference and requested a hearing. As a result, his case will be referred to the Office of Administrative Hearings (OAH).

Committee Meeting

2603 – River Design Group, Inc. / OSBEELS

Mr. Tappert reported that the Committee discussed that complainant Hermann Anderson alleged that Troy Brandt, registered agent of the River Design Group (RDG) Inc., Corvallis, OR, made design changes to the Sprague River restoration project without informing the Army Corp of Engineers or the Department of State Lands. Upon review, however, the matter was not within the Board's jurisdiction, but a review of the RDG Web site showed that RDG offered land surveying services without employing an Oregon professional land surveyor. Mr. Tappert noted that once RDG was notified of the problem they took immediate steps to clarify titles by noting

the states of registrations for their employees. It was moved and seconded (Tappert/Newstetter) to close the case as compliance met with reference to the company only. The motion passed unanimously.

2623 – Dale Hult / Thomas Turner

Mr. Tappert reported the Committee discussed that complainants Thomas and Celia Turner alleged that respondent Dale Hult, PLS, failed to follow accepted land surveying standards and was negligent in conducting a partition plat for their neighbor Steve Mueller. In 2003, Mr. Hult recorded a partition plat for the Mueller property, which is southwest of the Turner property, but not adjacent. Directly east of the Mueller property is adjoining property that also abuts the northerly Turner property. Mr. Hult indicated on his partition plat that he set monuments for a 20-foot wide utility easement through the adjoining property that also runs adjacent to the Turner property. Furthermore, he showed an existing gravel roadway through the adjoining property that does not have a written easement. The Turners alleged Mr. Hult failed to provide proper right of entry notice and to comply with Clackamas County requirements when he did not show “all obvious encroachments.” To clarify Mr. Hult’s work, the Turners hired Patrick Gaylord, PLS, who also prepared a map of survey.

Mr. Tappert observed this case was a neighbor dispute about surveying that occurred in 2003. He added that the plat was nearly ten years old, but was now appearing as a right of entry violation. The initial allegation was negligence in land surveying. However, the Committee found none and determined to close the case as allegations unfounded. There were questions about right of entry, however. He added the Committee determined to issue a letter of concern on the right of entry allegation because there was no evidence of that violation. It was moved and seconded (Tappert/Newstetter) to approve closing the case as allegations unfounded on the negligence allegation and as a letter of concern for right of entry. The motion passed unanimously.

Mr. Linscheid noted that ORS 672.047 required Mr. Hult to notify the Turners of right of entry and their right to request a map of survey. Mr. Wilkinson replied the Committee concluded that had the Turners been notified about right of entry and their right to request a map, they likely would have requested the map due to their interest. Had they been informed at the time, the complaint might not have come about. Because of the complaint, it became apparent that notice was not given. Hoffine noted that Mr. Hult did not enter the Turner property. He set monuments for the easement that formed the boundary between the Turners and the adjacent owner.

Mr. Tappert also pointed out that Mr. Gaylord prepared a map of survey for the Turners that he did not file. He observed that Mr. Gaylord reached the conclusion that the Hult monuments “may not be ownership corners.” However, Mr. Gaylord did not set monuments, so he was not required to file the map. It appeared to him that Mr. Gaylord questioned the legitimacy of the monuments on the Hult map, but he did not file the map to alert the public. Ms. Newstetter agreed that he was not required to file the map. She felt it should have been filed because he reached a different opinion than Hult and future surveyors should know his conclusions. This was survey report. Mr. Hoffine commented that Mr. Gaylord made an authoritative determination of a property line location and, therefore, established a boundary line. Ms. Tucker-Davis asked what statute required him to file the map if he did not set monuments. Ms.

Newstetter replied that he uses “may not” to describe the monuments and makes no statement on authoritative locations. He only located the monuments. There was no further discussion.

2628 – Jimmy Jarrett / Rob Ruedy

Mr. Tappert reported that the Committee discussed that complainant Robert Ruedy alleged that Jimmy Jarrett, PE, provided engineering services for an essential services facility when not registered as a structural engineer. Mr. Tappert observed that the City of Portland Building Department did not classify the communications tower as an essential facility and did not require a structural engineer for the permit. However, he noted that Mr. Jarrett did not properly seal and sign the original design calculations. The Committee recommended a letter of concern regarding use a compliant seal and proper signing of documents. It was moved and seconded (Tappert/Newstetter) to close the case with a letter of concern. The motion passed unanimously.

2778 – Douglas G. Knight / OSBEELS

Mr. Tappert reported that respondent Douglas G. Knight, PE, submitted a certified renewal form and completed CPD Organizational Form in order to renew his registration. Mr. Knight was subsequently requested to participate in the audit of documentation to support the PDH units he claimed as a condition of the last biennial renewal period. When Mr. Knight was unable to submit supporting documentation in response to the audit, his audit file was referred to the Regulation Department for investigation. Mr. Tappert stated that Mr. Knight is the first registrant under the new CPD reporting regime who was audited and referred for law enforcement. When his audit forms were investigated, it was found that he did not take the classes he reported on the CPD Organizational Form. He renewed with a signed certification statement that was based on falsified information. Mr. Tappert clarified this is no longer a CPD issue, but an issue of making false statements to the Board in order to be renewed. Ms. Newstetter agreed pointing out that Mr. Knight claimed a willingness to cooperate and to take the courses, but that was not the issue. The Committee did not accept his arguments and would hold him accountable for the false statements. Mr. Tappert stated the Committee approved issuing a Notice of Intent to assess a \$1,000 civil penalty for failing to comply with CPD requirements and a \$1,000 civil penalty and revocation for untruthful statements violating ORS 672.200(4), OAR 820-010-0635(1), OAR 820-015-0026(1), OAR 820-020-0015(7), and OAR 820-020-0025(1).

New Business

Preliminary Evaluation: Disciplinary report regarding J. Thomas Smith, PE

Mr. Tappert reported that the Committee reviewed a preliminary evaluation of a disciplinary action report submitted by J. Thomas Smith, PE, regarding a Stipulation and Consent Order he signed with the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors. Mr. Smith agreed to an admonishment for failing to comply with Idaho’s CPD requirements by six PDH hours. Mr. Tappert commented that this case was interesting because under Oregon rules the Board can take action against registrants who are sanctioned in another jurisdiction, but in this case the sanction does not rise to trigger action. However, the question came up if Mr. Smith did not comply in Idaho was he also not in compliant here. Mr. Tappert noted the Committee was concerned about the timing of renewal periods. The Committee directed further investigation.

Preliminary Evaluation: Disciplinary action against Andrew Stoupe, SE

Mr. Tappert reported that the Committee reviewed a preliminary evaluation of a notice from Andrew J. Stoupe, SE, regarding disciplinary action taken against him by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors. The Oklahoma Board found two violations, including his firm of Exterior Research and Design, LLC (dba Trinity | ERD) operated in Oklahoma without a Certificate of Authorization (COA) and Mr. Stoupe was not licensed to practice engineering in Oklahoma. Mr. Stoupe and his company reached compliance, received a reprimand, and paid an administrative penalty to settle the matter. Mr. Tappert stated the Board does not have authority for COA, but Mr. Stoupe was sanctioned for unlicensed practice of engineering. The Committee discussed whether it would be a violation of the rules of professional conduct to engage in unlicensed practice in another jurisdiction. However, the Board does not have jurisdiction in another state. Furthermore, he is an Oregon registrant who provided timely notice about the matter. The Committee determined to not open a case.

Preliminary Evaluation: Allegations against Basri Basri, PE

Mr. Tappert reported that the Committee reviewed a preliminary evaluation of an anonymous complaint regarding the engineering activities of Basri Basri, PE, and two firms, including Structural Components and b2 Structural Engineering. Mr. Tappert observed this was a plan stamping allegation about an engineer who was found to be providing supervision to employees of a cell tower manufacturer. Mr. Wilkinson added that the firm Structural Components actually hired Mr. Basri as a staff engineer and not as a contracted engineer. He supervised two technicians in making design changes for site specific cell towers. The Committee determined to not open a case.

Preliminary Evaluation: Allegations against Gregory Thiel, PE and Rick Raetz, PE

Mr. Tappert reported that the Committee reviewed a preliminary evaluation of a complaint submitted by David Bratton regarding Gregory Thiel, PE, and Rick Raetz, PE. Mr. Bratton alleged they “falsely changed the flood plain” in order to allow a private airport to be converted for commercial operations. The firm Mr. Thiel heads was hired to prepare a flood plain application for the airport, which resulted in a Letter of Map Amendment (LOMA) filed with FEMA that changed the area flood plain designation. Neighbors to the proposed airport expansion were concerned and hired a third party engineer to review the airport flood plain report against a flood plain report prepared for an Oregon Department of Transportation (ODOT) project near the airport. The third party engineer concluded there was an unaccounted for difference in the flood plain elevations between the two reports. Mr. Bratton subsequently submitted the complaints. Mr. Tappert observed the investigation found attached to the LOMA was a survey based on Washington County’s NGVD 29 datum. A conversion was not done to correct to the NAVD 88 datum that FEMA is now requiring. Mr. Hoffine added that FEMA is requiring the datum change and counties are slowly converting their NGVD 29 datum to the NAVD 88 datum. The process is taking time because each NGVD 29 datum point is unique and must be converted. Mr. Tappert clarified that the datum change-over has caused confusion and mistakes were possibly made, but no evidence supported the allegation that it was done to deceive the public. The Committee determined to not open an investigation.

Preliminary Evaluation: Delinquency of Ralph Dunham, PE, PLS, CWRE

Mr. Tappert reported that the Committee reviewed a preliminary evaluation regarding the delinquency of Ralph Dunham, PE, PLS, CWRE. Mr. Dunham submitted his renewal after his due date and was assessed a delinquency fee. Thereafter, he was not authorized to engage in professional practices while in delinquent status. When he responded to an inquiry, he wrote that he was short for land surveying PDH units and completed them around Christmas. He acknowledged sending his renewal late, but he also raised several concerns the Committee discussed. Mr. Tappert observed there was a seven week period of when Mr. Dunham knew he submitted a late renewal payment, yet continued to professionally practice. The Committee directed that a law enforcement case be opened for unlicensed practice during his delinquency period.

Discussion of allegations involving Autzen Stadium, requires professional reviewer

Mr. Tappert reported that the Committee discuss a complaint the Board received from a City of Eugene Building Official regarding the University of Oregon's Autzen Stadium. The University installed additional stadium seating last fall that was temporary and no longer on-site. Mr. Hoffine commented this was not good and needed to be investigated. Mr. Tappert agreed noting that at first blush it appeared there was pressure on the City to get the permit issued. However, the Building Official made allegations about very specific design criteria. The Committee directed to refer the matter to a professional reviewer.

Discussion of Matrix of overlapping areas of practice (Golberg-2656)

Mr. Tappert reported that the Committee briefly discussed a proposed matrix of overlapping practices of an engineer and geotechnical engineer. The Committee found that a qualified engineer can practice geotechnical engineering, but is restricted from use of the title. However, the Committee decided to not go forward with the matrix.

Discussion on Idaho Stipulated Agreement, spreadsheet on past sanctions

Mr. Tappert reported that the Committee discussed an Idaho Stipulated Agreement that showed Idaho staffs have the authority to negotiate settlement agreements with respondents. He stated this idea has been coming up over the years and the Board can use this as a model for OSBEELS. The concept would apply to only "administrative" type of violations, for example CPD cases and change of address. It would not be used in cases involving allegations of negligence or incompetence. The Board could streamline the case process by delegating the authority to staff.

Mr. Wilkinson clarified that the focus is on CPD cases because there are another twenty cases waiting to be opened. He admitted to holding the cases to see if approval is granted. If so, then the referred cases can be opened with new authority to negotiate settlements. The proposed process would bypass a full investigation, a Committee requirement to issue a NOI, and an informal conference. While discussions about specific terms are ongoing, the intent would be to evaluate a response to allegations to determine if the individual admits to the violations and is willing to accept settlement. He hoped this approach would reduce the current case load of 105 open cases. There was also discussion about applying this to right of entry because some surveyors have admitted to the violation and are willing to settle early. Mr. Tappert added that the registrant would always have the right to the hearing and informal conference. The Committee would still review the settlements and supporting documentation and make the

recommendation for approval to the full Board. He noted the proposal adds another opportunity to clear cases when the individual is fully cooperative. This would allow staff to an early resolution of selected cases.

AAG Tucker-Davis stated that the only issue is does the Board want to delegate the authority and what it would look like. The Board already has delegated to the staff the authority to investigate and this would also delegate authority to staff to negotiate settlements. Mr. Wilkinson added that the Committee tasked him to revise the LEC policies for their review at the next meeting. AAG Tucker-Davis informed that the final authority stills rests with the Board. Mr. Linscheid stated this was a good idea and to proceed. Mr. Wilkinson replied that the goal is to get this in place before the next round of CPD cases is opened. The revised policies should be ready for discussion at the August Committee meeting. Depending on comments received during the August Committee meeting, revised policies should be ready for the September Board meeting for final review and approval.

2601 – Rick Franklin Corporation: update information

Mr. Tappert reported that the Committee was updated by AAG Tucker-Davis on a case involving Rick Franklin Corporation (RFC). AAG Tucker-Davis informed that RFC was offering to design bridges, but they did not have a professional engineer on staff. The Committee authorized her to negotiate a settlement agreement. However, their attorney said the client was not interested in an informal conference, so the matter is going to a hearing. Mr. Tappert noted that they were not in compliance for their Web site offerings, but got into compliance once an investigator was able to contact someone. He did not understand why they don't want to meet to resolve the matter since the proposed civil penalty was \$1,000.

Settlement Agreements

Mr. Tappert reported that the Committee reviewed the lists of Cases Subject to Collections (9), Cases Subject to Monitoring (13), and Case Status Report that showed 105 active cases. The Committee offered no further comments.

PROFESSIONAL PRACTICES COMMITTEE

Ms. Newstetter reported that the PPC met on June 15, 2012, to discuss the matters contained in the Committee minutes. Additional discussion was held regarding the following matters:

Landscape Architects vs. Engineers

The Board discussed an email and information submitted by Todd Prager, a Certified Arborist, inquiring if a project engineer is authorized to produce drawings similar to those he submitted. After discussion, the Board agreed that the drawings do contain elements within the practice of engineering, but producing such drawings is not exclusively the practice of engineering. At the same time, it is reasonable that a professional engineer, regardless of discipline, may produce such drawings only when qualified by education or experience as authorized by OAR 820-020-0020. Staff was directed to respond accordingly.

RULES AND REGULATIONS COMMITTEE

Mr. Tappert reported that the RRC met on June 15, 2012, to discuss the matters contained in the Committee minutes. Additional discussion was held regarding the following matters:

OAR 820-010-0215 – Forms of Applications

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0215 as presented. The motion passed unanimously.

OAR 820-010-0225 – Educational Requirements to Take the Fundamentals of Engineering (FE) Examination for Enrollment as an Engineering Intern (EI)

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0225 as modified. The motion passed unanimously.

OAR 820-010-0226 – Educational Requirements to Take the Fundamentals of Land Surveying (FLS) Examination for Enrollment as a Land Surveyor Intern (LSI)

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0226 as modified. The motion passed unanimously.

OAR 820-010-0440 – Schedule of Examinations

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0440 as presented. The motion passed unanimously.

OAR 820-010-0444 – Proctoring of Examinations

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0444 as presented. The motion passed unanimously.

OAR 820-010-0463 – Cutoff Scores for Examinations

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0463 as presented. The motion passed unanimously.

OAR 820-010-0470 – Review of Examinations Administered by the Board

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0470 as presented. The motion passed unanimously.

OAR 820-020-0040 – Examination Subversion

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-020-0040 as presented. The motion passed unanimously.

OAR 820-010-0226 – Educational Requirements to Take the Fundamentals of Land Surveying (FLS) Examination for Enrollment as a Land Surveyor Intern (LSI) = FOM Request

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-010-0226 as presented. The motion passed unanimously. Staff noted that the revisions for the FOM request would be combined with the modified language also approved for Rulemaking earlier.

OAR 820-001-0015 – Hearing Request and Answers: Consequences of Failure to Answer

It was moved and seconded (Tappert/Wahab) to approve with the rulemaking process to amend OAR 820-001-0015 as presented. The motion passed unanimously.

ADJOURN

The meeting was adjourned at 3:35 p.m.

JULY 10, 2012 ACTION ITEMS:

- Seek the services of an outside CPA with more governmental auditing experience.
- Draft letter to Marv Pyles for President Linscheid to sign.

NEXT MEETINGS

Next Board Meeting:

September 11, 2012

Next Committee Meetings:

LAW ENFORCEMENT:

Thursday, August 9th at 8:00 a.m.

RULES & REGULATIONS:

Thursday, August 9th at 12:00 p.m.

EXAMINATIONS & QUALIFICATIONS:

Friday, August 10th at 9:00 a.m.

EXTERNAL RELATIONS:

Friday, August 10th at 10:30 a.m.

FINANCE:

Friday, August 10th at 11:00 a.m.

PROFESSIONAL PRACTICES:

Friday, August 10th at 1:00 p.m.