



Oregon

State Board of Examiners for
Engineering & Land Surveying
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Minutes of Meeting
September 10, 2013

CALL TO ORDER

President Tappert called the meeting to order at 9:01 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 (Arrived at 9:20 a.m.)
Steven Burger
James Doane
Anne Hillyer
Ken Hoffine
Sue Newstetter
Ron Singh (Left at 1:30 p.m.)
Thomas Van Liew

Others Present:

Mari Lopez, OSBEELS Executive Secretary
Jenn Gilbert, OSBEELS Executive Assistant
Joy Pariante, OSBEELS Social and Communications Media Specialist
Joanna Tucker-Davis, Assistant Attorney General
James Denno, Administrator, Oregon Board of Architect Examiners (OBAE)
Norma Frietas, Chair, OBAE
Patrick Bickler, Vice Chair, OBAE

PUBLIC INPUT

Representatives from OBAE were present to discuss proposed changes to Oregon Administrative Rule (OAR) 820-010-0622, Modifying Designs or Documents. OBAE's concern was that the revised rule was creating conditions where engineers could modify drawings and an issue would arise if an engineer were to modify an architect's drawing. Mr. Denno asked about the rationale behind this rule. President Tappert explained that there are obvious overlaps between the practice of engineering and the practice of architecture and there are many reasons why changes may need to be made to drawings during the course of a project. For example, if a client has the designs, but has a falling out with the architect, OBAE has a rule to govern the modification actions of the next architect on this project. However, many of the design tasks can be completed by an engineer and the client should have the choice of using an engineer or an

architect. This rule is to ensure those changes are being made properly and are clearly set apart as modifications of the original drawings.

Mr. Bickler said the above was solid reasoning for why the rule is necessary, but his concern is that this allowance would be confusing and lead to unintentional overlaps in practice. Mr. Hoffine said he was confused as to the concern regarding the rule because the language mirrors the language used in OAR 806-010-0115 from OBAE on the same topic. Mr. Bickler said that well-meaning design modifications could have far reach consequences to design systems. The issue with this is that the architect who created the original designs is still in responsible charge of those documents, regardless of who made changes to them. President Tappert explained that OSBEELS regulations allow engineers to change the work of other engineers by clouding the area of concern and attaching amended designs or calculations. Mr. Bickler said those procedures are still an issue because OBAE statutes require the original design professional to maintain control of the original stamped documents and no modifications can be made to the original documents.

President Tappert asked what would happen if the design professional were to change during the course of the project. Mr. Bickler explained that, if modifications were necessary, the new design professional would have to create an entirely new set of drawings incorporating the changes. He reiterated that statute does not allow any changes to be made to stamped and sealed architectural drawings. Mr. Singh said, as someone who is new to the Board and to the discussion of this rule, that it seems both rules would need to change to accommodate the needs of both boards. Mr. Bickler said there are additional rules and statutes, in addition to OAR 806-010-0115, that explain design modification restrictions.

President Tappert asked about scenarios in which there are multiple design professionals on a project. For example, if a mechanical engineer starts a project and he's fired, the new mechanical engineer can cloud the original drawings and add a new document as an addendum. Mr. Bickler explained that individuals licensed by OBAE have never been able to make changes to each other's work. If a design needs modifications and the original architect isn't available, an entirely new set of drawings is created under a different stamp. Ms. Newstetter asked if new drawings are drafted for every change. Mr. Bickler said a new page can be added with the different architect's stamp. President Tappert asked how individuals working on the project can tell changes have been made to the design and additional pages have been attached. Mr. Bickler said there are a number of options including a table of revisions, an addendum document or a notation of the new page superseding the previous design on the slip sheet. However, the original designs must remain in the set.

Mr. Hoffine suggested a small group of OSBEELS and OBAE members work together to remedy the concerns of OBAE while drafting a rule that meets the needs of OSBEELS. Staff were directed to schedule a meeting between the OBAE members and OSBEELS members. Ms. Lopez also noted that a small group is needed from OSBEELS for the Reference Manual redrafting, which is on the agenda for the Joint Board Meeting with the Oregon State Board of Geologist Examiners (OSBGE). President Tappert, Mr. Doane and Ms. Duquette volunteered to work with OBAE and on the Reference Manual redrafting project. There was no additional discussion.

BOARD CONSENT AGENDA

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

- September 10, 2013 Board Agenda
- August 13, 2013 Special Board Meeting minutes
- August 30, 2013 Special Board Meeting minutes
- August 9, 2013 Oregon Specific Examination Task Force Committee meeting minutes
- August 9, 2013 External Relations Committee meeting minutes
- August 9, 2013 Finance Committee meeting minutes
- August 8, 2013 Law Enforcement Committee meeting minutes
- August 9, 2013 Professional Practice Committee meeting minutes
- August 9, 2013 Rules and Regulations Committee meeting minutes

The motion passed unanimously.

Additional discussion was held regarding Item 2 – July 9, 2013 Board meeting minutes. Ms. Newstetter asked for clarification on whether the Oklahoma or Pennsylvania board had nominated David Widmer for consideration as the next president-elect of the National Council of Examiners for Engineering and Surveying (NCEES). After checking the July 2013 Executive Secretary Report, it was confirmed that the Oklahoma Board nominated Mr. Widmer. It was moved and seconded (Newstetter/Doane) to approve the July 9, 2013 Board meeting minutes. The motion passed unanimously. There was no additional discussion.

EXECUTIVE SECRETARY’S REPORT

Additional discussion was held on the following matters:

Administrative Activities

NCEES 92nd Annual Meeting

Regarding the transition to computer-based testing, Ms. Lopez reported that a video about the process will be available on the NCEES website. The long form application, for use by individuals applying based on a combination of education and experience, is still being drafted. There was no further discussion.

Staff Update: The FE/FLS Long Form Application was made available on the OSBEELS website on October 2, 2013.

OSBEELS/OSBGE Joint Board Meeting – October 10, 2013

Ms. Lopez reported that arrangements have been made to convene a joint meeting between the boards on October 10, 2013 at 5 p.m. at the Chemeketa Center for Business and Industry in downtown Salem. Christine Valentine, administrator for OSBGE, requested OSBEELS input for a meeting agenda. After reviewing the proposed agenda, the Board determined no additions were necessary. Mr. Hoffine asked if Board members could be provided in advance with the definitions from each board pertaining to the fields with overlap – for example, engineering geology and geotechnical engineering. Ms. Lopez added that two law enforcement cases are awaiting review by the Joint Compliance Committee on October 24, 2013. There was no further discussion.

Action Items

Ms. Lopez noted that she had not heard back from either party in reference to the March 2013 Action Item regarding completion of an examination contract for the CA Geotechnical examination (California Board) and an MOU for the Certified Water Right Examiner examination (Water Resources Department).

Additionally, Ms. Lopez reported that she has not yet drafted an RFP for research and consulting services to better understand the public's perception of OSBEELS. There was no further discussion.

Annual Performance Evaluation

The Board exited its public meeting pursuant to ORS 192.660(2)(i) and entered into executive session to evaluate the performance of the executive secretary. 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.

It was moved and seconded (Newstetter/Hoffine) to accept the Annual Performance Evaluation for Ms. Lopez. The motion passed unanimously.

It was moved and seconded (Newstetter/Singh) to approve 40 hours of management leave for Ms. Lopez. The motion passed unanimously.

President Tappert requested volunteers for a team to rewrite Ms. Lopez's job description to increase her job classification. The updated description would need to be approved by the Department of Administrative Services prior to implementation. Team members will be determined at a later date. There was no additional discussion.

PRESIDENT'S REPORT

Additional discussion was held on the following matters:

NCEES 92nd Annual Meeting

Discussions

President Tappert reported that, at the Engineer's Forum, there were a number of interesting discussions. One group was advocating the expansion of structural licenses, with the goal of having the structural license come after a base engineering license and to restrict the practice of structural engineering to those with licenses. Another discussion focused on determining which education should count toward continuing professional development. Many boards were frustrated with the amount of enforcement resources devoted to the issue and some suggested eliminating the requirement. President Tappert said most of the group was in opposition with his assertion that boards should defer to the registrant about what knowledge is important for his or her own practice.

There was a discussion regarding removing the experience requirement for qualification to take the Principles and Practices of Engineering (PE) examination. Supporters of the removal argued that allowing people to take the exam at any time would help eliminate the industrial exemption and increase the number of licensed women (based on the belief that four years after graduation is when many women are beginning to start families and don't have the time to commit to examination preparation). Opponents saw this as a way to phase out or merge the Fundamentals Examination with the PE. However, it was noted that the four years of experience would still be required to obtain licensure. There was no further discussion.

Motions

- Refer the change of eliminating the requirement for engineers to obtain four years of

experience before qualifying for the PE examination to the Uniform Procedures and Legislative Guidelines (UPLG) committee to incorporate into NCEES Model Law. Motion passed 41-24. Oregon opposed the motion.

- Make changes to the definition of engineering surveys to make clear that survey work permitted by engineers is only in conjunction with and incidental to other engineering work. Motion failed 8-56. Oregon opposed the motion. Ms. Newstetter said this was the most discussed topic in the Surveyor's Forum.
- Change the Model Rules, making it a requirement for registrants to report to their boards any suspicion that another registrant has violated the rules. The current rule requires registrants to cooperate with Board investigations. The change would require a registrant to initiate an investigation. Motion passed 60-7. Oregon opposed the motion because delegates did not feel a registrant should be subject to disciplinary action for failing to report suspicions regarding other registrants to the Board.
- Change the Model Rules, making it a requirement for a registrant to inform another registrant if the first registrant believes that the work of the second registrant is flawed. Motion passed 60-7. Oregon opposed the motion because delegates did not feel a registrant should be subject to disciplinary action for failing to inform another registrant of faults found in their work.
- Require a four-year degree for surveying licensure. This would make ABET-accredited four-year degrees the only path to survey licensure. Motion failed 22-43. Oregon opposed the motion. Ms. Newstetter said a long speech was given at the Surveyor's Forum about non-degree holding surveyors "hampering" the profession. Supporters of the degree requirement believed that strengthening educational requirements is a key way to move surveying from being considered a "trade" to a "profession."
- Initiate a change in bylaws to equalize the voting power by state, rather than by number of professional boards. Currently, every board has a vote in council business, but there are 14 states that have separate boards for engineering and surveying, with Illinois having three (PE, PLS and a separate structural board). Under the proposal, boards that represent both engineers and surveyors would have two votes and states would be limited to a maximum of two votes. Motion failed 27-37 with three abstentions. Oregon supported the motion, however, President Tappert noted that the new system would also be flawed as the number of votes still does not reflect the number of engineers and land surveyors represented.

While discussing Board representation at NCEES, Mr. Hoffine asked if the OSBEELS term limits prevent long-term participation in NCEES task forces. Ms. Lopez explained that former Board members can request the current Board grant them "emeritus" status, which allows for continued involvement with NCEES activities, including task force participation. There was no further discussion.

Committee Assignments

President Tappert presented the Committee reassignments, to better incorporate new Board members. AAG Tucker-Davis reminded Board members to refrain from discussing Board and Committee information with each other because the small Committee sizes lend themselves to unintentional quorums. There was no further discussion.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Mr. Doane reported that the EQC met on August 9, 2013 to discuss the matters as contained in the Committee minutes. It was moved and seconded (Doane/Burger) to approve the Comity list containing 76 applicants. Mr. Doane recused himself from voting on No. 25 of the comity list. The motion passed.

It was moved and seconded (Doane/Singh) to approve the 1st Registration list containing 13 applicants. The motion passed unanimously.

Additional discussion was held regarding the following matter:

Ms. Duquette asked how structural comity is determined. Ms. Lopez said comity applicants must have passed an examination and met requirement that are considered substantially equivalent to the examination and requirements in Oregon at the time of licensure. There was no further discussion.

OREGON SPECIFIC EXAMINATIONS TASK FORCE

Ms. Newstetter reported that the OSETF met on August 9, 2013, to discuss the matters as contained in the Committee minutes. It was moved and seconded (Newstetter/Burger) to approve the consent agenda containing the following:

- Approve the Oregon Specific Exam Policy
- Change the language from “The following exams are administered by OSBEELS and subject to this policy” to “The following exams are currently offered outside of NCEES” for clarity.

There was no additional discussion. The motion passed unanimously.

There was additional discussion regarding the following matters:

Acoustical Engineering Examination Development Team

An email was received from Art Noxon, examination development team liaison to the Board, with his required annual team roster. It listed Mr. Noxon as the primary and Kerrie Standlee as the alternate. Ms. Duquette suggested a third person be added to the acoustical team for development and scoring quality control. Board members referenced the Oregon Specific Exam Policy to determine if a third team member could be required. Ms. Newstetter pointed out that the policy allows for the Board to require additional members on a team, if necessary.

Ms. Hillyer asked if NCEES offers an acoustical engineering examination that could be used instead. Ms. Lopez said that 10 member boards must confirm the need for an acoustical exam to be developed and that threshold hasn't been met.

Board members spoke with Mr. Noxon via telephone regarding the possibility of adding an additional team member. Mr. Noxon explained the current examination grading process.

Ms. Duquette, who has served as a grader and examination developer for the WA Structural III and the NCEES Structural 16-hour, said it would be more effective for both Mr. Noxon and Mr. Standlee to grade the examinations and compare results. Then, any discrepancies would be addressed through a third team member who would individually grade the examination and compare the third-party results to those obtained by Mr. Noxon and Mr. Standlee. After discussion, it was moved and seconded (Newstetter/Van Liew) to accept the Acoustical Engineering examination syllabus and development team, as presented. Mr. Noxon agreed to begin searching for a third member, but pointed out that it may be difficult due to the small

amount of registered acoustical engineers in Oregon. Ms. Gilbert mentioned that there are 14 registered acoustical engineers who reside in Oregon. There was no further discussion. The motion passed unanimously.

Mr. Noxon also informed Board Staff that the syllabus online was not accurate. Ms. Lopez asked why this issue wasn't brought up during OSETF meetings. The two syllabi were identical, except one omitted the reference materials suggested by the development team. Ms. Duquette said there was an issue with the suggested reference materials not being nationally adopted. Mr. Singh said this shouldn't be an issue, as the materials are only suggested, not required. Ms. Gilbert pointed out that the examination is open book and students can use any materials they wish. Mr. Noxon said knowledge of the materials being used during the examination are significant because it helps graders understand the methodology candidates are using to solve the problems. He also said that candidates contacted him frequently for information regarding study or reference materials. Staff were directed to update the syllabus currently on the OSBEELS website to include the list of suggested reference materials. The updated syllabus will also be sent to the four acoustical candidates for the October 2013 examination administration.

There was also confusion on Mr. Noxon's part regarding the permitted materials list available at the OSBEELS website. He said the description and accompanying image indicate that no bound materials are allowed at the testing location. Mr. Hoffine clarified that only bound materials are allowed – no loose papers. Ms. Lopez directed Mr. Noxon to the list of permitted materials and associated rule for further clarification.

Mr. Singh said he thought the examination development process in Oregon was much more structured than indicated by the new policy. He asked if there are policies in place to screen and approve team members or standards and processes in place for examination development. The Board referenced the policy, which describes the team selection process and states that the teams must be approved by the Board. Mr. Hoffine said there were issues with the forest engineering examination until OSBEELS and the faculty at Oregon State University began working together.

Forest Engineering Examination Development Team

Dr. John Sessions submitted his 12-member examination development team roster for approval. Board members noted that Dr. Sessions had signed his submission letter as a PE, without designating that he was licensed in Washington, not Oregon. Staff were directed to send a reminder to Dr. Sessions about the proper way to indicate licensure from states other than Oregon. It was moved and seconded (Newstetter/Burger) to accept the Forest Engineering examination development team, as presented. There was no further discussion. The motion passed unanimously.

EXTERNAL RELATIONS COMMITTEE

Ms. Newstetter reported that the ERC met on August 9, 2013 to discuss the matters as contained in the Committee minutes. It was moved and seconded (Newstetter/Van Liew) to approve the consent agenda containing the following:

- Approve the New Board Members article for *The Oregon Examiner*.
- Approve the Right of Entry Notification for Apartment Complexes/Multi-Family Dwellings article for *The Oregon Examiner*.
- Approve the Construction Contractors Offering Engineering Services article for *The Oregon Examiner*.

There was no additional discussion. The motion passed unanimously.

There was additional discussion regarding the upcoming symposium. Board members suggested emailing the registration form and informational flier to professional organizations to increase visibility of the event. The Board members also requested the registration form and informational flier be sent to all Board members for dissemination. There was no further discussion.

FINANCE COMMITTEE

Mr. Doane reported that the FC met on August 9, 2013, to discuss the matters as contained in the Committee minutes. It was moved and seconded (Newstetter/Van Liew) to approve the consent agenda containing the following:

- Approve proceeding with a financial audit.

President Tappert asked how the Board selects an auditor. Ms. Lopez said Staff are drafting a request for proposal (RFP) based on sample RFPs provided by the Secretary of State's Office. Mr. Tappert explained the difference between a financial audit and a financial review for the new Board members. A financial review, he said, is less intensive and is the method used by most of the other semi-independent boards. However, both Mr. Tappert and Ms. Newstetter agreed that a financial audit, which is more in-depth, is the better choice for OSBEELS. There was no additional discussion. The motion passed unanimously.

LAW ENFORCEMENT COMMITTEE

Ms. Newstetter reported that the LEC met on August 8, 2013, to discuss the matters as contained in the Committee minutes. It was moved and seconded (Newstetter/Doane) to approve the consent agenda containing the following:

- Final Orders
 - 2736 - Mark Fordham – Permanent retirement without reinstatement
 - 2738 - Fredrick J. Proffitt – NOI uncontested, \$500 civil penalty paid in full
 - 2739 - George W. Voss – Civil penalty of \$250 paid in full. Permanent retirement without reinstatement.
 - 2741 - Ross A. Winters – Civil penalty of \$250 paid in full. Permanent retirement without reinstatement.
 - 2777 - Joe P. Hill – Civil penalty of \$500.
- Additional Action Items
 - 2728 – Maria Cahill – Close case as compliance met.
 - 2723 – J. Duncan Campbell Jr. – Close case as compliance met.
 - 2744 – Daniel Kidd – Close case as compliance met.
 - 2745 – Nathan Daniel Wayne Stark – Close case as other.
 - 2747 – Timothy Dugan – Close case as compliance met.
 - 2759 – Paul D. Raymond – Close case as compliance met.
 - 2766 – Jeff Cully – Close case as unfounded.
 - 2769 – Theodore E. Leonard – Close case as compliance met.
 - 2777 – Irina Leschuk – Close case as compliance met.

The motion passed unanimously.

There was additional discussion regarding the following matters:

Douglas Knight, Case 2778

The Board exited its public meeting pursuant to ORS 192.660 (f) to consider information or records that are exempt by law 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 discussing the potential implications of the language changes suggested by Mr. Knight's attorney, it was moved and seconded (Newstetter/Boyd) to reject the settlement agreement language change requested by Mr. Knight's attorney. There was no further discussion. The motion passed unanimously.

Rick Franklin Corporation – Amended Proposed Order

The Board exited its public meeting pursuant to ORS 192.690 (1) for private deliberation on a contested case. 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 discussing the information contained in the amended proposed order, it was moved and seconded (Boyd/Newstetter) to issue the amended proposed order, as drafted, with the exception of bolding text in the last paragraph. There was no further discussion. The motion passed unanimously.

PROFESSIONAL PRACTICES COMMITTEE

Ms. Newstetter reported that the PPC met on August 9, 2013, to discuss the matters contained in the Committee minutes. There was additional discussion on the following matter:

Practice of Software Engineering

The Board discussed the necessity of getting public input regarding licensure requirements for software engineering. Ms. Newstetter asked if software engineering has life, health and safety impact potential. Mr. Van Liew said advances in technology and the prevalence of technological aspects in our daily lives means we need to address software engineering as a discipline. Mr. Singh explained that engineers are designing structures that can be built by machines. However, the individual writing the code to program those machines isn't required to be licensed, so there are no regulatory means in place. He said this constitutes a significant public safety issue.

Ms. Hillyer asked if there were any existing certifications or qualifications available other than licensure for software engineers. Ms. Newstetter asked if OAR 820-020-0020 would allow for those holding software engineering licenses to build roadways or engage in other unrelated PE tasks. Ms. Lopez said yes, unless the rule is changed. She added that Staff would need Board direction regarding approving individuals for licensure, grandfathering, qualifications, etc. if a new discipline is added.

President Tappert asked why a definition for software engineer is required when the other disciplines aren't defined. Ms. Newstetter said if the Board can't define a discipline, it can't license and regulate that discipline. Mr. Singh said this issue seems far too large to determine without public input. He suggested inviting interested parties to a public forum.

President Tappert said this field might be similar to fire protection engineering, where there is a great deal of technician level work and most of it is performed by unlicensed individuals. Mr.

Burger pointed out that the current examination qualification requirements for courses completed for non-ABET accredited degrees wouldn't apply to the courses completed when studying software engineering. Ms. Lopez said that NCEES is removing a number of subjects from the FE, which will also impact Oregon's examination qualification requirements rule.

The Board determined to send the topic of introducing software engineering as a licensed discipline back to the PPC for further discussion. Ms. Newstetter requested that Staff provide a chart explaining the process of adding a discipline and background information regarding software engineering licensing in other jurisdictions to Board members prior to the public meeting. The public meeting date was left undetermined.

RULES AND REGULATIONS COMMITTEE

Mr. Hoffine reported that the RRC met on August 9, 2013, to discuss the matters contained in the Committee minutes. It was moved and seconded (Hoffine/Burger) to approve the consent agenda containing the following:

- Approve OAR 820-010-0463 – Cutoff Scores for Examinations to proceed to rulemaking.
- Approve OAR 820-010-0730 – Use of Title if Registered in Other Jurisdiction to proceed to rulemaking.
- Approve OAR 820-015-0026 – Failure to Comply with Continuing Professional Development Requirements to proceed to rulemaking.
- Approve OAR 820-050-0010 – Continuing Professional Development Requirements: Failure to Comply to proceed to rulemaking.

Additional discussion took place on the following topics:

NEW BUSINESS

Symposium

The Board determined to reduce the fee to \$80 for all symposium attendees, regardless of registration timeframe, to encourage attendance.

BOARD MEMBER COMMENTS

Board members had the opportunity to comment on Board or non-Board related issues. They discussed the following:

- Ms. Newstetter said she had a great experience at the NCEES Annual Meeting and she encouraged other Board members to attend NCEES events if they have the opportunity.
- Mr. Boyd informed the Board that he would be out of town during the October Committee meetings.

ADJOURN

The meeting was adjourned at 2:24 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 contact and Certified Water Right Examiner MOU.

NEXT MEETINGS

Next Board Meeting:
November 12th, 2013

Joint Board Meeting (with Oregon State Board of Geologist Examiners):
October 10th, 2013

Next Committee Meetings:

LAW ENFORCEMENT:	Thursday, October 10 th at 8 a.m.
RULES & REGULATIONS:	Friday, October 11 th at 8 a.m.
EXAMINATIONS & QUALIFICATIONS:	Friday, October 11 th at 9 a.m.
EXTERNAL RELATIONS:	Friday, October 11 th at 11 a.m.
FINANCE:	Friday, October 11 th at 11:30 a.m.
Oregon Specific Exam Task Force:	Friday, October 11 th at 12 p.m.
PROFESSIONAL PRACTICES:	Friday, October 11 th at 1 p.m.
JOINT COMPLIANCE COMMITTEE	Thursday, October 24 th at 1 p.m.