



Oregon

State Board of Examiners for
Engineering & Land Surveying
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Minutes of Meeting
May 13, 2014

CALL TO ORDER

President Tappert called the meeting to order at 9 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. **Please note:** The Consent Agendas referenced throughout these minutes are provided as attachments to this document.

ROLL CALL

Members present:

Carl Tappert
Steven Burger
James Doane
Shelly Duquette
Anne Hillyer
Ken Hoffine
Jason Kent
Sue Newstetter
Ron Singh

Members excused:

William Boyd

Others Present:

Mari Lopez, Administrator
Jenn Gilbert, Executive Assistant
Katharine Lozano, Assistant Attorney General
Joy Pariante, Social and Communications Media Specialist
Roger Coleman, Professional Engineers of Oregon (PEO)
Michael Hardy, PEO
Bob Neathamer, Board liaison for the Oregon Specific Land Surveying Examination

PUBLIC INPUT

There was no public input.

BOARD CONSENT AGENDA

Ms. Newstetter requested to pull Items 2 and 8 from the Consent Agenda for additional discussion. It was moved and seconded (Doane/Kent) to approve Items 1, 3-7 and 9-10 on the Consent Agenda (Attachment A). The motion passed unanimously.

There was additional discussion on the following meeting minutes:

Item 2: March 11, 2014 Board Meeting Minutes

Ms. Newstetter had a question regarding whether a reason needs to be provided when abstaining from a vote. AAG Lozano said a reason is not required, but could be provided, if desired. It was moved and seconded (Kent/Newstetter) to approve the minutes. There was no further discussion. The motion passed unanimously.

Item 8: April 10, 2014 Law Enforcement Committee Meeting Minutes

Ms. Newstetter brought a typo to the attention of Staff. It was moved and seconded (Newstetter/Doane) to approve the minutes, as amended. There was no further discussion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

Additional discussion was held on the following matters:

Administrative Activities

National Society of Professional Engineers (NSPE) – Cover feature story

Ms. Lopez reported that Eva Kaplan-Leiserson, senior staff writer for NSPE, requested information regarding international licensure for a story she was working on for NSPE's magazine. Oregon was contacted because it was at the forefront of this issue from the start. Board members were provided with a copy of the drafted responses to Ms. Kaplan-Leiserson's questions and the published article. Ms. Newstetter said it was a good article and the answers provided by OSBEELS Staff were excellent. Ms. Lopez said she and Ms. Pariente had collaborated on the answers provided to NSPE. There was no further discussion.

NCEES 2014 Central/Western Zone Joint Interim Meeting

Ms. Lopez reported that she, Mr. Doane and Registration Specialist Brianna Weekly would be representing OSBEELS at the 2014 Central/Western Zone Joint Interim Meeting in Lincoln, NE. Ms. Lopez also reported that South Dakota's Board planned on bringing up concerns regarding early PE testing during the meeting. Additionally, the Alaska Board requested support of Brian Hanson, PE, for Western Zone Vice President. Ms. Newstetter instead suggested Patrick Tami, PLS, who she said was a leading force in the Western Zone and NCEES. She added that he's active in the field and seems to be passionate and committed to engineering and land surveying. The Board supported Ms. Newstetter's suggestion. There was no further discussion.

Staff Update: Ms. Lopez and Ms. Weekly were unable to attend the meeting due to flight cancellations. Mr. Doane was still in attendance and said he would provide a brief report during the next Board meeting.

Semi-Independent Agency Biennial Reports

Ms. Lopez reported that, pursuant to ORS 182.472, OSBEELS submitted its report to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer for review on March 31, 2014. Ms. Newstetter asked if OSBEELS receives any feedback from these reports. Ms. Lopez said a feedback and summary report containing information from all the semi-independent agencies is distributed after all biennial reports are reviewed. There was no further discussion.

OSBEELS Legislation

Ms. Lopez reported that the Legislative Concepts have been submitted for the 2015 Legislative Session. There was no further discussion.

Staffing

Ms. Lopez reported that an interagency agreement with the Department of Administrative Services (DAS) Enterprise HR Services has been finalized. This agreement will provide recruitment and position management services to OSBEELS. Mr. Hoffine asked for clarification on the contracted services. Ms. Lopez explained that Enterprise HR Services will be responsible for posting open employment positions and recruiting individuals for these positions. It will also provide classification and compensation guidance when developing position descriptions to ensure compliance with the state classification and compensation requirements. There was no further discussion.

Action Items

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

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

March 2013 – Complete CA Geotechnical examination contract

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

PRESIDENT’S REPORT

PEO Conference

President Tappert reported that there were a number of concerns voiced during the conference regarding unlicensed practice – particularly in the practices of forest engineering, building commissioning and TAB work. He also reported that registrants are split regarding support of continuing professional development (CPD) requirements for a number of reasons. He said attendees said they didn’t like the ambiguity surrounding which courses would count toward professional development hours (PDH) and wanted preapproval of courses prior to enrollment. Attendees also said they felt OSBEELS reviews the submitted PDHs too strictly and discount the number of hours required to complete certain PDH courses. Mr. Hardy said PEO members are concerned because they don’t receive feedback on the PDHs submitted each renewal period, which means they can’t base future courses on courses that have previously been accepted. AAG Lozano asked if Staff provide any feedback to registrants regarding the PDHs submitted. Ms. Lopez said, if the PDHs are sufficient, the registration is renewed, but some registrants want course-by-course feedback – much like the individuals who want details on which questions are incorrectly answered on the Take at Home examination, even though they obtained a passing score. AAG Lozano asked if there is any notification to registrants regarding carryover credits, as this information may assist registrants in planning for PDHs for the next renewal. President Tappert suggested Staff develop a method of informing registrants of the number of carryover credits they have during each renewal.

Joint Compliance Committee (JCC)

President Tappert reiterated that John Seward, Ms. Duquette and Mr. Kent are the current JCC members; with Mr. Doane acting as an alternate. Ms. Duquette suggested having only two

members with voting privileges to assuage concerns of the Oregon State Board of Geologist Examiners (OSBGE) regarding overrepresentation of OSBEELS in the JCC. However, she added, all JCC members should participate in the meeting for continuity.

Finally, President Tappert noted that this would be his last Board meeting as president, as his term ends on June 30, 2014. He said he feels comfortable leaving the Board in its current position because of all the progress made in the past year by dedicated members and Staff. There was no further discussion.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Ms. Hillyer reported that that EQC met on April 11, 2014 and discussed the matters contained in the Committee minutes. President Tappert requested to pull Items 1 and 3 from the Consent Agenda for additional discussion. Ms. Duquette requested to also pull Items 4 and 5. It was moved and seconded (Hillyer/Duquette) to approve Items 2,6 and 7 from the Consent Agenda (Attachment B). The motion passed unanimously.

Additional discussion was held on the following matters:

Item 1: Deny Mr. Feltis' request to validate FE results

President Tappert requested clarification on Mr. Feltis' request. Staff explained that the statute specifies graduation from the program, not completion of required courses. It was moved and seconded (Doane/Singh) to deny Mr. Feltis' request to validate his FE results. There was no further discussion. The motion passed unanimously.

Item 3: Approve the CO FE examination Ms. Bredeweg passed in 1975 as substantially equivalent to the FE examination required by OSBEELS in 1975

President Tappert suggested a change to the language used in the Consent Agenda to specify that the Board is approving the examination as substantially equivalent. It was moved and seconded (Hillyer/Hoffine) to approve the CO FE examination administered in 1975 as substantially equivalent to the FE examination required by OSBEELS for the same time period. There was no further discussion. The motion passed unanimously.

Item 4: Approve Mr. Speer's mechanical engineering experience and passage of the NCEES 8-hour architectural PE examination as qualifying for registration in Oregon as a mechanical engineer

Ms. Duquette said she was concerned about registering Mr. Speer in a discipline other than the one he was tested for. AAG Lozano explained that the Committee reviewed the syllabi for both the mechanical and architectural engineering examinations and noted a significant number of overlaps in areas examined. Ms. Duquette said there should have been review of the examination development matrices conducted by a mechanical engineer to determine the depth of these overlaps. Ms. Lopez said this is becoming a reoccurring scenario as architectural engineers apply for registration by comity in Oregon where architectural engineering is not a registered discipline. AAG Lozano asked if the changes to the registration process in the proposed Legislative Concept would conflict with offering registration in situations such as this. President Tappert explained that an engineer's discipline is determined by examination, but they are free to practice in any other discipline in which they're competent based on education or experience.

It was moved and seconded (Hillyer/Doane) to approve Mr. Speer's mechanical engineering experience and passage of the NCEES 8-hour architectural PE examination as qualifying for registration in Oregon as a mechanical engineer. Mr. Hoffine asked Ms. Duquette if a review of the syllabi by a mechanical engineer would make her more comfortable with this determination. Ms. Duquette said it would partially, but the syllabi aren't nearly detailed enough regarding areas of minimum competence. Mr. Hoffine asked if Staff could acquire the matrices mentioned earlier by Ms. Duquette. Ms. Lopez said that information is considered confidential examination information and NCEES will not release it. Ms. Hillyer asked why OSBEELS does not offer registration as an architectural engineer. Ms. Lopez explained that the Administrator of the Oregon Board of Architect Examiners (OBAE) had addressed the OSBEELS Board in 2003. At this time, the Administrator said OBAE pursues disciplinary action on individuals who violate ORS 672.020, which places restrictions on the use of the term "architectural." Ms. Duquette said she believed that Structural Engineers of Oregon (SEAO) would also have issues with the use of that term. The Board determined to discuss the possibility of changing the name of the architectural engineering designation in the future. The motion passed; Ms. Duquette opposed the motion.

Item 5: Approve Mr. Wahl's request for a waiver of the requirements outlined in OAR 820-010-0200(2)(b)

There were two matters to be discussed regarding Mr. Wahl's situation. First, the Board needed to consider his request for a waiver of the three required PE references. Second, the Board needed to consider if his examination on record was substantially equivalent to the examination required by Oregon during the same time period. Ms. Duquette pointed out that Mr. Wahl has been a PE for quite some time, but could not provide any PE references who supervised his work. Mr. Kent pointed out that many of Mr. Wahl's previous PE references have passed away and his most recent work in the medical field did not involve any other PEs. Ms. Duquette asked why some individuals are granted waivers for references but others aren't. AAG Lozano explained that rules can be waived, but no exceptions can be made for statutory requirements. She added that many of the reference waivers previously addressed were the result of individuals working under an industrial exemption.

Ms. Duquette said this situation doesn't involve an industrial exemption. Ms. Hillyer noted that Mr. Wahl did provide references from his clients regarding the final product delivered. Ms. Duquette countered that these references do not attest to his work quality as an engineer. Mr. Burger clarified that these references do attest to the quality of the devices he designed for diagnosis and treatment of medical conditions, but not to the underlying engineering work. However, he added, his clients would be the best individuals to judge the quality of his work in this specialized medical equipment development. President Tappert said references should not be provided to check a box on the application, but to offer insight into work quality. Mr. Wahl's references, although they are doctors and not engineers, provide insight into his most recent work. President Tappert said he is sure Mr. Wahl could go back and track down PEs for references, but they would not be able to attest to the quality of his most recent engineering work. It was moved and seconded (Hillyer/Doane) to approve Mr. Wahl's request for a waiver of the requirements outlined in OAR 820-010-0200(2)(b).

After the motion, it was noted that the Board had not yet discussed the substantial equivalency of Mr. Wahl's professional examination. President Tappert asked if the Board's proposed Legislative Concept would address the substantial equivalency of all examinations. AAG

Lozano said the concept would declare substantial equivalency for all examinations except for the structural engineering examination. Independent confirmation of substantial equivalency for that examination would still be required. Mr. Kent asked if there was information available on these examinations to judge substantial equivalency. AAG Lozano said that documentation regarding the content of many of the older state-specific examinations no longer exists. President Tappert asked if the Board had ever denied substantial equivalency for the PE examination. Ms. Lopez said the only substantial equivalency she can remember being denied pertained to the structural engineering examination. The original motion was amended (Hillyer/Doane) to include approving Mr. Wahl's PE as substantially equivalent to the examination requirements in Oregon at the time of examination. There was no further discussion. The motion passed; Ms. Duquette and Mr. Hoffine opposed the motion.

Comity List

It was moved and seconded (Hillyer/Burger) to approve the list of applicants for registration by comity containing 99 individuals. There was no additional discussion. The motion passed unanimously.

1st Registration List

It was moved and seconded (Hillyer/Singh) to approve the list of applicants for registration by 1st registration containing 20 individuals. There was no additional discussion. The motion passed unanimously.

Default Final Orders

AAG Lozano noted that there are contested case rights associated with application denial for an examination or for registration by comity. These Default Final Orders complete the contested case process for the following individuals:

- Andrew Paul
- Tyler S. Porter
- Sonyajula S. Rao
- Jason R. Silvertooth
- Neil R. Trotman
- Minyeong Yang

It was moved and seconded (Doane/Burger) to approve the Default Final Orders for the above individuals. There was no further discussion. The motion passed unanimously.

Syed Final Order

AAG Lozano explained that OSBEELS won the summary determination in Mr. Syed's case. The Proposed Final Order was to deny Mr. Syed's application on the basis of lack of successful completion of the Fundamentals of Engineering examination, as required for registration in Oregon. It was moved and seconded (Doane/Hillyer) to accept the Proposed Final Order. There was no further discussion. The motion passed unanimously.

OREGON SPECIFIC EXAMINATIONS TASK FORCE

Ms. Newstetter reported that the OSETF met on April 11, 2014 and discussed the matters contained in the Committee minutes.

President Tappert requested to pull Item 3 from the Consent Agenda for additional discussion. It

was moved and seconded (Newstetter/Hoffine) to approve Items 1 and 2 from the Consent Agenda (Attachment C). The motion passed unanimously.

There was additional discussion regarding the following matters:

Item 3: Begin rulemaking to change the acoustical engineering examination to a spring examination date

Mr. Hoffine noted that he was concerned about the change causing examinees to miss an examination cycle or having two examination administrations within a 6-month time period. Ms. Newstetter said that examination cycle issues weren't discussed during the conversation with the acoustical liaison in April. It was determined that examination cycle issues could be discussed during the rulemaking process. It was moved and seconded (Newstetter/Doane) to begin rulemaking to change the acoustical engineering examination to a spring examination date. There was no further discussion. The motion passed unanimously.

Oregon Specific Land Surveying Report – Bob Neathamer

Mr. Neathamer reported a 47 percent pass rate for the spring Oregon Specific Land Surveying examination. He added that Staff did an excellent job in the preparation, administration and selection of facilities for the examination. Mr. Neathamer also passed out his examination development team roster for the Board's review prior to the July 2014 Board meeting. He requested the members of his team be specifically approved as subject matter experts, which is not part of the regular process for approval of an examination development team. He said the designation of these individuals as subject matter experts would be helpful if any part of the examination is appealed. The Board determined to address this matter during the July 2014 Board meeting. There was no further discussion.

EXTERNAL RELATIONS COMMITTEE

Mr. Doane reported that the ERC met on April 11, 2014 and discussed the matters contained in the Committee minutes. It was moved and seconded (Doane/Burger) to approve the Consent Agenda (Attachment D) in its entirety. There was no additional discussion. The motion passed unanimously.

FINANCE COMMITTEE

Mr. Hoffine reported that the FC met on April 11, 2014 and discussed the matters contained in the Committee minutes. It was moved and seconded (Newstetter/Hillyer) to approve the Consent Agenda (Attachment E) in its entirety. The motion passed unanimously. There was additional discussion on the following matter:

Review of Audit Information

An issue regarding numbers reported in the audit was identified by Mr. Hoffine during the audit review at the April Committee meeting. Staff reported that the issue was caused by the auditors inputting the incorrect dollar amount and has been corrected.

Mr. Hoffine asked for additional information regarding the missing funds discussed during the April Committee meeting. Specifically, he wanted to know the current procedures for handling cash. Ms. Lopez said cash is now deposited daily, as opposed to being locked in the accounting cabinet until the next deposit. Additionally, management is now notified by the receptionist whenever cash is received. Mr. Hoffine asked if the RFP for accounting assistance had been

completed. Ms. Lopez said the RFP is scheduled to be reviewed at the next Committee meeting. There was no further discussion.

LAW ENFORCEMENT COMMITTEE

President Tappert reported that the LEC met on April 10, 2014, to discuss the matters as contained in the Committee minutes. It was moved and seconded (Burger/Singh) to approve the Consent Agenda (Attachment F) in its entirety. The motion passed unanimously.

There was additional discussion regarding the following matters:

LEC Flow Chart

The Board reviewed the flow chart provided to new Board members to explain the Committee process from receipt of a complaint to resolution of the case. Ms. Newstetter said the majority of the flow chart was very helpful for new Board members or others who aren't familiar with the process. However, AAG Lozano noted that some changes were needed to the portion of the flow chart detailing the appeals process. Staff were directed to work with AAG Lozano to correctly depict the appeals process. The Committee will review the amended flow chart during the June 2014 meeting. There was no further discussion.

PROFESSIONAL PRACTICES COMMITTEE

Ms. Newstetter reported that the PPC met on April 11, 2014 and discussed the matters contained in the Committee minutes. It was moved and seconded (Newstetter/Hillyer) to approve the Consent Agenda (Attachment G) in its entirety. The motion passed unanimously.

There was additional discussion regarding the following matters:

Filing of Boundary Line Adjustment Map

Ms. Newstetter noted that this issue needs to be addressed during the June 2014 meeting. AAG Lozano said her advice on this topic will be available for review during the Committee meeting. There was no further discussion.

Signing of record drawings – Nathaniel Schroeder

The discussion of Mr. Schroeder's question focused on the fact that the individual in charge on-site is responsible for verifying the final structure matches the as-builts. However, this individual may not necessarily be the engineer of record. Therefore, if the engineer of record is not in charge of verifying the final structure, that individual should not seal the documents because he or she is not in supervision and control of the project. AAG Lozano said sealing the documents if not in responsible charge may cause significant issues if that design were to fail in the future. President Tappert said, in the past, his office would seal as-builts because his office was responsible for final reviews and inspections and, therefore, knew the final status of the project as compared to the as-builts. Ms. Duquette, Mr. Burger and Mr. Singh all said their agencies do not require an engineer's stamp on as-builts.

Mr. Burger noted that retaining an engineer during the construction process is often overlooked during the contracting process. He said it seems like the issue is that the requirement to have an engineer seal the as-builts was overlooked when drafting the contract and now the engineer of record is expected to fulfill this role. AAG Lozano said, regardless of contract issues, an engineer not in supervision and control of a project cannot seal associated documents. The Board directed Staff to respond to Mr. Schroeder and direct him to the rules and statutes

pertaining to supervision and control. Additionally, the response will indicate that, unlike OBAE, the Board has no rule requiring construction supervision. There was no further discussion.

Digital signing of electronic documents with multiple drawings within – Matthew Sprick

The Board discussed whether or not a digital signature is required to be present on every page of a document. Ms. Duquette and Mr. Singh noted that, currently, calculations are only sealed on the title or main page – not each individual page. Mr. Singh said he believes that if it is all contained in one electronic file, only one digital signature should suffice because that signature acts as the credentials for the entire file. However, he said, if you were to print only one page from that file, there would be no signature present. He suggested including a statement on each page indicating that the first page of the electronic document is digitally signed.

AAG Lozano asked the Board members if they believe a rule change is necessary in this situation as OAR 820-010-0620(e) seems to address the potential implementation of Mr. Singh's suggestion - *"Bears the phrase 'digital signature' in place of a handwritten signature."* She explained the current rule can be interpreted as allowing one signature and/or requiring a signature statement on each page.

President Tappert said he is concerned about having final plans in circulation with no engineer stamp in place. Mr. Singh said there will be no printed plans in the future, as all documents will be submitted and transmitted digitally. He said the only place there may be hard-copy plans is in the field. The Board directed Staff to respond to Mr. Sprick and inform him that his question triggered an in-depth discussion on the topic and the potential of a rule change and the topic will be further addressed during the June Committee meeting. There was no further discussion.

PE stamp of structural as-built drawings – Luke Scoggins

The Board directed Staff to respond to Mr. Scoggins with the same response being given to Mr. Schroeder. There was no further discussion.

Biddle/McAndrews and Sanitary Sewer – Larry Beskow

President Tappert disclosed a potential conflict of interest as he knows Mr. Beskow. AAG Lozano said there isn't a conflict of interest because there would be no voting on the issue and no determinations would be made. The Board would simply be directing Mr. Beskow to the applicable statutes and rules. Ultimately, this situation was similar to the situations described by Mr. Schroeder and Mr. Scoggins. The Board members determined to further address the question of the local requirements to seal as-builts at a future meeting. There was confusion regarding the sealing requirement since as-builts aren't designs or engineering work, but more like transcripts of what was actually built as compared to the initial plans. The Board directed Staff to respond to Mr. Beskow with the same response being given to Mr. Schroeder and Mr. Scoggins. There was no further discussion.

Engineering grading permit plans and Landscape Architect stamp – Kofi Nelson

The Board reviewed the response given by the Oregon State Landscape Architects Board, which identified an exemption in their rule for engineers performing services that overlap the scopes of both engineering and landscape architecture. The Board agreed with the Committee's initial guidance regarding a response and directed Staff to respond to Mr. Nelson and inform him that requiring the stamp of an engineer for site grading and drainage, and site grading compatible

with the intended land use was an appropriate requirement, as those tasks fall under the practice of engineering, as defined in ORS 672.020. There was no further discussion.

OSBGE Guidance Documents

The Board reviewed the Professional Practices Guidance produced by OSBGE. The Board also reviewed Mr. Kent's suggested changes to improve the accuracy and clarity of this document. OSBGE also submitted a draft of its Geology Report Guidelines for review. The Board noted that neither John Seward, JCC member, or Mr. Kent had any suggestions regarding this document. It was moved and seconded (Doane/Hillyer) to forward Mr. Kent's comments to OSBGE for consideration. There was no further discussion. The motion passed unanimously.

Reference Manual for Building Officials

The Board reviewed the Committee's suggested revisions to the *Reference Manual for Building Officials*, drafted by OBAE. AAG Lozano noted an issue with the term "design professional," which may not necessarily indicate only a registered engineer or architect. The Board determined to send the draft back to the Committee for a final review before the Board votes on the document during the July 2014 meeting. There was no further discussion.

RULES AND REGULATIONS COMMITTEE

Mr. Hoffine reported that the RRC met on February 14, 2014 and discussed the matters contained in the Committee minutes. It was moved and seconded (Hoffine/Newstetter) to approve the Consent Agenda (Attachment H) in its entirety. The motion passed unanimously.

There was additional discussion on the following matter:

Mr. Doane noted that he was perturbed he was not nominated for service on the Water Resources Department's (WRD) Dam Safety Advisory Committee. The Committee members noted the request for one OSBEELS member came to the Committee for consideration and Mr. Kent volunteered to serve due to his experience. Therefore, it wasn't necessary to extend the invitation to all Board members. There was no further discussion.

UNFINISHED BUSINESS

Default Final Orders

The following individuals were issued NOIs, but did not return the Options Form:

- Bowers, Bradley J.
- Osman, Eric
- Ren, Xingchan
- Tatman, Joshua C.
- Acacio, Elmo

It was moved and seconded (Newstetter/Doane) to issue Default Final Orders for the individuals listed. There was no additional discussion. The motion passed unanimously.

Purdy Final Order

Mr. Purdy's case went to hearing and an adverse proposed order was drafted. The Board amended the proposed order to include denying registration to Mr. Purdy. No exceptions were filed by Mr. Purdy. After the issuing of this Final Order, Mr. Purdy has 60 days to contest. It was moved and seconded (Doane/Hoffine) to issue a Final Order to Mr. Purdy. There was no

additional discussion. The motion passed unanimously.

Website Question (ERC) – Jon Proud

The Board revisited a matter from the ERC portion of the meeting. Mr. Proud submitted a question regarding posting disciplinary actions on the Board’s website. Mr. Doane said he believed this option would allow the public to better select professionals to perform services. Mr. Burger asked how the public was currently obtaining information regarding disciplinary actions. Ms. Lopez said interested individuals can call the office or complete a Public Records Request to obtain a copy of the Final Order or any associated documentation regarding possible disciplinary actions taken against a registrant. The Board requested that Ms. Lopez submit an implementation feasibility proposal to the ERC during its June 2014 meeting. There was no further discussion.

NEW BUSINESS

Nominating Committee

The Nominating Committee recommended Ms. Newstetter for president and Mr. Hoffine for vice president. Ms. Newstetter disclosed a medical condition, but said she has already made arrangements to work her treatment around her Board commitments. Ms. Newstetter was affirmed as president (Doane/Duquette) and Mr. Hoffine was affirmed as vice president (Newstetter/Doane). There was no additional discussion.

LEGAL BRIEFING

First Amendment rights and unlicensed practice violations

AAG Lozano discussed *Cooksey v. Futrell* (721 F. 3d 226; 2013) as decided by the United States Court of Appeals for the Fourth Circuit on June 27, 2013, which was discussed during the recent Federation of Associations of Regulatory Boards (FARB) conference AAG Lozano attended on behalf of OSBEELS.

The plaintiff operated a website promoting certain diets and offering dietary and lifestyle advice. The North Carolina dietary board warned the plaintiff of the practice act and unlicensed practice issues and the plaintiff modified his site. Thereafter, he filed suit arguing his First Amendment rights and a lower court dismissed the matter, “finding no harm to the plaintiff. On appeal, the 4th Circuit vacated addressing the justiciability of the allegations or standing. It held that the plaintiff satisfied the threshold of injury as the Board action had a chilling effect on the plaintiff’s speech. With injury in fact met, the court noted the plaintiff easily satisfied the remaining two issue related to standing, causation and redressibility.” There was no additional discussion.

BOARD MEMBER COMMENTS

There were no Board member comments.

ADJOURN

The meeting was adjourned at 2:16 p.m.

November 2012 ACTION ITEMS:

- Draft an RFP for research and consulting services to better understand the public’s perception of OSBEELS.

March 2013 ACTION ITEMS:

- Complete CA Geotechnical examination contract.

November 2013 ACTION ITEMS

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

NEXT MEETING

July 8, 2014 at 9 a.m.



Consent Agenda

May 13, 2014 Board Meeting

The following consent agenda is presented for the May 13, 2014 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	Approval of May 13, 2014 Board agenda.	<u>Motion/Second</u> <u>(Doane/Kent)</u>
2	Approval of March 11, 2014 Board meeting minutes.	Pulled by Ms. Newstetter for additional discussion. <u>Motion/Second</u> <u>(Kent/Newstetter)</u>
3	Approval of April 11, 2014 Rules & Regulations Committee meeting minutes.	<u>Motion/Second</u> <u>(Doane/Kent)</u>
4	Approval of April 11, 2014 Examinations & Qualifications Committee meeting minutes.	<u>Motion/Second</u> <u>(Doane/Kent)</u>
5	Approval of April 11, 2014 Oregon Specific Examination Task Force Committee meeting minutes.	<u>Motion/Second</u> <u>(Doane/Kent)</u>
6	Approval of April 11, 2014 External Relations Committee meeting minutes.	<u>Motion/Second</u> <u>(Doane/Kent)</u>
7	Approval of April 11, 2014 Finance Committee meeting minutes.	<u>Motion/Second</u> <u>(Doane/Kent)</u>
8	Approval of April 10, 2014 Law Enforcement Committee meeting minutes.	Pulled by Ms. Newstetter for additional discussion. <u>Motion/Second</u> <u>(Newstetter/Doane)</u>
9	Approval of April 11, 2014 Professional Practices Committee meeting minutes.	<u>Motion/Second</u> <u>(Doane/Kent)</u>
10	Approval of April 29, 2014 Special Board meeting minutes.	<u>Motion/Second</u> <u>(Doane/Kent)</u>



Consent Agenda

Examinations & Qualifications May 13, 2014 Meeting

The following consent agenda is presented for the May 13, 2014 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	Deny Mr. Feltis' request to validate FE results.	Pulled by Mr. Tappert for discussion <u>Motion/Second (Doane/Singh)</u>
2	Approve the question and answer bank for the take at home examination.	<u>Motion/Second (Hillyer/Duquette)</u>
3	Approve the CO FE examination Ms. Bredeweg passed in 1975 substantially equivalent to the FE examination required by OSBEELS in 1975.	Pulled by Mr. Tappert for discussion. <u>Motion/Second (Hillyer/Hoffine)</u>
4	Approve Mr. Speer's mechanical engineering experience and passage of the NCEES 8hr architectural PE exam as qualifying for registration in Oregon as a mechanical engineer.	Pulled by Ms. Duquette for discussion. <u>Motion/Second (Hillyer/Kent). Ms. Duquette opposed.</u>
5	Approve Mr. Wahl's request for a waiver of the requirements outlined in OAR 820-010-0200(2)(b) & Examination equivalency.	Pulled by Ms. Duquette for discussion. <u>Moved/Seconded (Hillyer/Doane) Mr. Hoffine and Ms. Duquette opposed.</u>
6	Deny Mr. Hwang's application for registration by 1 st Registration	<u>Motion/Second (Hillyer/Duquette)</u>



Oregon

State Board of Examiners for Engineering and Land Surveying

Consent Agenda

Item #	In the matter of:	Action:
7	Deny Mr. Ryu's application for registration by 1 st Registration	<u>Motion/Second</u> (Hillyer/Duquette)



Oregon

State Board of Examiners for Engineering and Land Surveying

Consent Agenda

Oregon Specific Examinations Task Force May 13, 2014

The following consent agenda is presented for the May 13, 2014 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 Committee Chair.

Item #	In the matter of:	Action:
1	Approve the Mission, Functions and Goals statement.	<u>Motion/Second</u> <u>(Newstetter/Hoffine)</u>
2	Approve the revised forest engineering exam syllabus.	<u>Motion/Second</u> <u>(Newstetter/Hoffine)</u>
3	Begin rulemaking to change the acoustical engineering examination to a spring examination date.	Pulled by Mr. Tappert for discussion. <u>Motion/Second</u> <u>(Newstetter/Doane)</u>



Oregon

State Board of Examiners for Engineering and Land Surveying

Consent Agenda

External Relations
May 13, 2014

The following consent agenda is presented for the May 13, 2014 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 Committee Chair.

Item #	In the matter of:	Action:
1	Approve Scouting and STEM: Encouraging a new generation of engineers and land surveyors article.	<u>Motion/Second</u> <u>(Doane/Burger)</u>
2	Approve Who came first? A brief history of the first registered professionals in Oregon article.	<u>Motion/Second</u> <u>(Doane/Burger)</u>
3	Approve Outgoing Board member – Carl Tappert article.	<u>Motion/Second</u> <u>(Doane/Burger)</u>
4	Approve Upcoming Water Resources Department classes article.	<u>Motion/Second</u> <u>(Doane/Burger)</u>



Oregon

State Board of Examiners for Engineering and Land Surveying

Consent Agenda

Finance
May 13, 2014

The following consent agenda is presented for the May 13, 2014 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 Committee Chair.

Item #	In the matter of:	Action:
1	Approve the Mission, Functions and Goals statement, as revised.	<u>Motion/Second</u> <u>(Newstetter/Hillyer)</u>



Consent Agenda

May 13, 2014 Board Meeting

Final Orders: For the following LEC cases, the respondents have either: 1) submitted the “Options Form” electing not to contest the findings in the Notice of Intent and submitted payment in full for the assessed penalty; 2) entered into a Settlement Agreement and will submit payment when the Final Order is issued; or 3) have not responded to the Notice of Intent and are subject to a Default Final Order. The Final Orders are ready for Board approval and Board President’s signature.

Case No.	Respondent	Violation(s)	LEC Recommendation	Action
2749	SOFTWARE TECHNOLOGY GROUP, INC.	ORS 672.020(1), ORS 672.045(2); (OAR) 820-010-0720(1) and (3)	Civil Penalty \$750 - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2770	ERIC STRICKLAND	ORS 672.007(1)(c)	Civil Penalty \$1,000 - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2782	CHANDER P. NANGIA	OAR 820-020-0045(4)	Permanent Retirement - Final Order Incorporating Settlement Agreement	<u>Motion/Second (Burger/Singh)</u>
2790	KENNETH WARD COBB	OAR 820-020-0015(8)	Civil penalty for \$200 - Final Order Incorporating Settlement Agreement	<u>Motion/Second (Burger/Singh)</u>
2794	TOMISLAV Z GAJIC	OAR 820-010-0635(1)	Civil Penalty \$1,000 and 60 day suspension - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2804	RANDALL DAVID RAINES	OAR 820-020-0015(8)	Civil Penalty \$500 - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2805	JAE HWAL SHIN	OAR 820-020-0015(8)	Civil Penalty \$500 - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2812	DAVID JAMES COLLIER	ORS 672.047(4)	Civil Penalty \$250 - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2814	KENRICK R. LUCK	OAR 820-020-0015(7) and OAR 820-010-0635	Civil Penalty \$1,000 and 60 day suspension - Default Final Order	<u>Motion/Second (Burger/Singh)</u>



Consent Agenda

Case No.	Respondent	Violation(s)	LEC Recommendation	Action
2815	JAMES ANDREW MILLER	OAR 820-020-0015(8) and OAR 820-010-0635	Civil Penalty \$1,000 and 60 day suspension - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2816	BRYCE N. MOCHRIE	OAR 820-020-0015(8)	Civil Penalty \$500 - Default Final Order	<u>Motion/Second (Burger/Singh)</u>
2859	DOUGLAS M. FERGUSON	ORS 209.250	Civil Penalty \$250 - Default Final Order	<u>Motion/Second (Burger/Singh)</u>

Additional Action Items: The following cases were discussed at the April 10, 2014 Committee meeting and the Committee recommends action on the following cases:

Case No.	Respondent	Allegation	LEC Recommendation	Action
2791	LYNN M. COLEBANK	Failed to provide documentation of compliance with CPD requirements.	Close case - allegations unfounded	<u>Motion/Second (Burger/Singh)</u>
2797	KYU-HAN JUNG	Failed to provide documentation of compliance with CPD requirements.	Close case - compliance met	<u>Motion/Second (Burger/Singh)</u>
2798	SOO JONG KIM	Failed to provide documentation of compliance with CPD requirements.	Close case - allegations unfounded	<u>Motion/Second (Burger/Singh)</u>
2817	JEFFREY SCOTT PAYNE	Failed to provide documentation of compliance with CPD requirements.	Withdraw NOI and close case - compliance met	<u>Motion/Second (Burger/Singh)</u>
2831	ANDREW SZTYMELSKI	Offering of engineering services without registration.	Close case - compliance met	<u>Motion/Second (Burger/Singh)</u>
2850	JOHN DANIEL HOWORTH	Did not comply with OAR 820-010-0621 for sealing final documents prepared under his supervision and control.	Close case - compliance met	<u>Motion/Second (Burger/Singh)</u>
2852	SHANE MICHAEL SWEET	Unlicensed practice of engineering.	Close case - compliance met	<u>Motion/Second (Burger/Singh)</u>
2853	CHARTER CONSTRUCTION	Unlicensed practice of engineering.	Withdraw NOI and close case - compliance met	<u>Motion/Second (Burger/Singh)</u>



Oregon

State Board of Examiners for Engineering and Land Surveying

Consent Agenda

Professional Practices
May 13, 2014

The following consent agenda is presented for the May 13, 2014 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 Committee Chair.

Item #	In the matter of:	Action:
1	Approve the Mission, Functions and Goals statement, as amended.	<u>Motion/Second</u> <u>(Newstetter/Hillyer)</u>



Consent Agenda

Rules and Regulations *May 13, 2014*

The following consent agenda is presented for the May 13, 2014 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 Committee Chair.

Item #	In the matter of:	Action:
1	Approve the revised Mission, Functions and Goals statement for the Rules and Regulations Committee	<u>Motion/Second</u> <u>(Hoffine/Newstetter)</u>
2	Begin the rulemaking process for OAR 820-010-0505 and OAR 820-010-0520, as amended	<u>Motion/Second</u> <u>(Hoffine/Newstetter)</u>