



# Oregon

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STATE BOARD OF EXAMINERS  
FOR ENGINEERING &  
LAND SURVEYING

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Minutes of Meeting  
March 10, 2015

## CALL TO ORDER

President Newstetter called the meeting to order at 9:06 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:

Sue Newstetter  
William Boyd (arrived at 9:20 a.m.)  
Steven Burger  
Shelly Duquette  
Ken Hoffine  
Jason Kent  
Ron Singh  
Dave Van Dyke  
Amin Wahab  
Oscar Zuniga

### Others Present:

Mari Lopez, Administrator  
Jenn Gilbert, Executive Assistant  
Adaira Floyd, Social and Communications Media Specialist  
Katharine Lozano, Assistant Attorney General  
Michael Hardy, PE, Professional Engineers of Oregon (PEO)

## PUBLIC INPUT

There was no public input.

## HYDROGRAPHIC SURVEYING

A letter was received by OSBEELS office from Chris Goldfinger, Professor of Oceanography and Chris Romsos, Senior Research Associate at the Oregon State University (OSU) College of Earth, Ocean, and Atmospheric Sciences (CEOAS) on January 21, 2015 and was included in the Board packet for discussion.

The letter provided Mr. Goldfinger and Mr. Romsos' opinion that evidence supporting a licensure problem has not been provided and that PLS requirements to provide hydrographic surveying in Oregon are not needed. Staff was directed to send a copy of the approved January 15, 2015 Board meeting minutes.

## **BOARD CONSENT AGENDA**

President Newstetter requested to pull item 6 from the Board Consent Agenda for additional discussion. It was moved and seconded (Singh/Duquette) to approve items 1, 2, 3, 4, 5, 7, 8, 9, and 10 on the Board Consent Agenda (Attachment A). The motion passed unanimously.

There was additional discussion on the following:

### **Item 6: February 13, 2015 External Relations Committee meeting minutes**

President Newstetter brought the Board's attention to the February 13, 2015 ERC meeting minutes, which indicated that an article on SB 297 was planned to be provided for Board review; however, this article was not provided. Sue Newstetter suggested revisiting the article pending SB 297's legislative approval. It was moved and seconded (Duquette/Kent) to approve item 6. There was no additional discussion. The motion passed unanimously.

## **ADMINISTRATOR'S REPORT**

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

Ms. Lopez reported that the NCEES examinations are scheduled to be held in Salem on April 17-18, 2015 at the Oregon State Fairgrounds. The Oregon Specific Land Surveying 4-hour Examination is scheduled to be held in Salem on April 18 at Best Western with 26 scheduled examinees. The Certified Water Right Examination is scheduled to be held on April 10 at the Water Resources Department with 12 examinees. She also noted that the Board received 4 applications for the Forest Engineering Examination, which is scheduled to be held on April 17 at the OSBEELS office. Ms. Lopez informed the Board that NCEES has extended an invitation to the Board to observe the professional examination administration. It was noted that Mr. Burger has observed the examination administration in the past; there were no volunteers.

### Registration

Ms. Lopez reported that renewals are scheduled to be sent out in April 2015 to allow sufficient time for the registrants who must renew by June 30, 2015 to log their professional development hours accordingly.

### 2015 Southern/Western Zone Meeting

The 2015 Southern/Western Zone Meeting has been scheduled to be held at the Chaparral Suites on May 14-16 in Scottsdale, AZ. Ms. Lopez reported that Mr. Wahab and Ms. Weekly will be joining her at the meeting. Ms. Lopez attached the meeting agenda for informational purposes.

### NCEES Inquiry Regarding Early Taking of the PE Examination

Jerry Carter, NCEES Chief Executive Officer, recently inquired whether the Board has given any consideration about allowing candidates to take the PE examination early. Ms. Lopez provided related documents regarding the question, including the NCEES Model Law 130.10. Mr. Carter asked if the Board still requires four years of experience prior to a candidate becoming qualified

to take the PE exam and, if so, is the Board giving any consideration to adopt the change made last year to the Model Law to allow candidates to take the PE any time after successful completion of the FE. In an email response to Mr. Carter, Ms. Lopez explained that Oregon currently requires four years of experience prior to a candidate becoming qualified to take the PE exam.

AAG Lozano explained that the Board's current proposed legislation, Senate Bill (SB) 297, would allow the applicant to obtain the necessary qualifications for licensure, including sitting for the required examinations in any order convenient to the applicant, and prior to applying for licensure with OSBEELS. If the Bill passes, the requirements to meet the current qualification standards for license would remain; however, the Bill changes when proof of meeting those qualification requirements are submitted to OSBEELS. Ms. Lopez added that on March 4, 2015, the Bill passed unanimously on the Senate Floor and the Board will continue monitoring the Bill as it progresses through the legislative process. There was no further discussion.

**Staff Update:** Ms. Lopez responded to Mr. Carter's question on March 13, 2015 and informed him of the Board's current proposed legislation for SB 297. From a query on the NCEES MBA link, several states responded that they have decoupled the PE exam and experience: KY, LA, SC (PE and PLS exam), NE, NM, NV, IL (PE decoupled but not SE), and WY. The following states responded that they have not decoupled: AK, CO, IA, ID, FL (PE Board), NY, OH, MO, VA, WA, and WV (PE Board). The following states responded that they are in the process of revising law to decouple: CA, NC, OK and TX. It was also noted that MN, TN, and ME (PE Board) are currently discussing the matter. Ms. Lopez will be working with AAG Bray to revise the contract between NCEES and OSBEELS once final determinations are made regarding SB 297.

#### Memorandum of Understanding (MOU) between OSBEELS and the Oregon State Board of Geologist Examiners (OSBGE)

Ms. Lopez reported that on February 5, 2015, a JCC meeting was held in the conference room of the OSBGE. The October 2, 2014 meeting summary was approved. Additionally, the JCC reviewed and discussed the revised MOU draft along with both Boards' legal counsel. As a result, edits were requested to the MOU draft with a final review to occur during the next JCC meeting in May 2015.

#### Reference Manual for Building Officials – OBAE and OSBEELS Joint Publication

OSBEELS received revised copies of the 2014 *Reference Manual for Building Officials* on March 2, 2015. Copies were provided to the Board members. Ms. Lopez reported that staff has contacted OBAE requesting the pdf version for web posting. President Newstetter directed staff to reach about to OBAE again, due to concerns with the OSBEELS' website containing the outdated manual.

**Staff update:** OBAE provided a pdf version of the 2014 *Reference Manual for Building Officials* through email. The updated *Manual* is now available on the OSBEELS website.

#### Government Auditing and Accounting Services

Ms. Lopez reported that a Notice for accounting assistance was published on the Oregon Procurement Information Network (ORPIN) and on the OSBEELS website for 30 calendar days. She informed the Board that one response was received. Ms. Lopez provided copies of the response for the members.

Ms. Lopez further informed the Board that the Secretary of State (SOS) Audits Division will no longer be contracting financial review or audit services for OSBEELS and other semi-independent agencies. The SOS Audits Division will no longer post any semi-independent agency reviews or audits on their website; however, SOS will review the contracts and ensure the reviews or audits are completed (see ORS 182.464 and ORS 182.472). As a result, Ms. Lopez reported that a Notice for Financial Auditing Services was published on the Oregon Procurement Information Network (ORPIN) and on the OSBEELS website. Ms. Lopez added that the most recent audit(s) are currently available on the OSBEELS website. The Board reviewed and discussed the proposal received for accounting assistance submitted by Grove, Mueller, Swank, P.C. It was moved and seconded (Duquette/Zuniga) to proceed with the proposal, pending positive references. For discussion, Ms. Duquette suggested reaching out to the municipalities mentioned in the proposal as references. The motion passed unanimously. Mr. Zuniga asked if the Finance Committee planned to meet regarding budget planning; Ms. Lopez confirmed.

#### Oregon Secretary of State – Office of Small Business Assistance (SBA)

AAG Lozano explained that the Office of SBA has recently received correspondence from two law enforcement respondents, and more recently a stakeholder in hydrographic surveying. The Office of Small Business Assistance serves as an independent voice for small businesses within state government and was established by the Oregon Legislature with the passage of HB 3459 (2013). The Office of SBA works to resolve specific concerns and facilitates communication between small businesses and state agencies. Ms. Lopez informed the Board that she will be meeting with President Newstetter, AAG Lozano and Ruth Miles, Small Business Advocate at 4:00 p.m. at the OSBEELS office to exchange information and to discuss OSBEELS authorities in statutes and rules. Over the past year, Ms. Miles has traveled Oregon to visit with business leaders, chambers of commerce, business associations and community partners to hear their concerns. As an additional resource for Ms. Miles, President Newstetter suggested providing the copies of recent Board meeting minutes to Ms. Miles. There was no further discussion.

#### OSBEELS' Legislation

Ms. Lopez informed the Board that a hearing on SB 297 occurred on February 2, 2015. Several concerns were expressed and the Senate Committee recommended that OSBEELS meet with stakeholders prior to the public work session. On February 11, 2015, Ms. Lopez, Ms. Gilbert and AAG Lozano met with stakeholders at the OSBEELS office to discuss the intent of the Bill, changes to the NCEES exam administration, and minor adjustments to the text of the Bill. As a result of the discussion, amendments were requested by OSBEELS and others. AAG Lozano provided updates on the proposed amendments and changes. On February 25, 2015, a work session was held; AAG Lozano, Ms. Gilbert and Ms. Lopez attended. Ms. Lopez reported that OSBEELS did not provide testimony. The Professional Engineers of Oregon (PEO) submitted a letter to the Senate Committee and a P.E. registrant testified, recommending the Committee to support the OSBEELS amendment. The Senate Committee voted a “do pass” with Senator Thomsen carrying the Bill. Ms. Lopez further explained that the Bill had its third reading on

March 4 and passed on the Senate Floor unanimously. Ms. Lopez mentioned that another Bill may reach OSBEELS regarding comity for emergency situations. She identified ACEC and PEO as helpful resources.

#### Governor's Office of Diversity & Inclusion/Affirmative Action

Ms. Lopez reported that the Board's 2015-2017 Diversity & Inclusion/Affirmative Action Plan was received, reviewed, and accepted.

#### Governor's Office of Executive Appointments

Ms. Lopez reported that the Governor's Office is requesting the submittal of the 2<sup>nd</sup> report (quarter period of January – March 2015) by May 31, 2015. Ms. Lopez reminded the Board that the report is designed to be a collaborative effort between Board Chairs and Administrators; a draft will be completed for President Newstetter's review and approval.

#### Board Vacancies

Ms. Lopez informed the Board that the Governor's Office has yet to fill the position vacated by Ms. Hillyer (ORS 672.240(1)(e)), preferably by a person qualified in photogrammetric mapping. Ms. Lopez was informed that appointments are on hold due to the recent changes at the Capitol.

#### Staffing

Ms. Lopez provided updates regarding the File Clerk and HR Manager positions.

### **PRESIDENT'S REPORT**

President Newstetter reported the NCEES Board Presidents' Assembly took place on February 6-7 in Atlanta, Georgia; President Newstetter was unable to attend. She mentioned that CBS aired a 60-minute report on engineering, titled "The Storm after the Storm." President Newstetter intended to show a video clip of the report; however, staff was unable to receive adequate permission from CBS. Ms. Lopez mentioned that a link to the video will be sent out to Board members to watch online. President Newstetter briefly summarized the report. Next, she thanked those involved with SB 297 and recognized their efforts. President Newstetter led a discussion regarding the Committee Roster, noting that she has been attending various Committee meetings. She explained that the LEC has been tasked with many complex land surveying cases and that there is a need for another PLS on the Committee. President Newstetter appointed Mr. Hoffine to serve on the LEC and appointed herself as an additional alternate member to assist the Committee with surveyor expertise. Mr. Singh brought up additional concerns regarding the amount of time the LEC has to review the surveying details and maps prior to meetings. Mr. Singh suggested that a Board investigator meet with one or two Committee members to provide a briefing prior to an LEC meeting and perhaps after a scheduled Board meeting. Mr. Kent shared ideas for distributing the LEC meeting packets; ideas included process improvements and online services to securely access the packets from home computers. AAG Lozano noted that the information in the packets is public record and therefore non-confidential, excluding legal advice. President Newstetter next reminded the members to keep their roles of Board and Committee members entirely separate from their roles as professional association members or private professionals, except for using their personal professional and technical expertise in carrying out Board duties. To maintain this separation, members must refrain from speaking or opining for the Board, or as a "Board member," outside of Board and Committee meetings.

unless authorized by the Board. President Newstetter also suggested the members refrain from privately or personally advising people, associations, or other groups on what is or is not lawful under OSBEELS' statutes and rules; and refraining from discussing contents of legal advice provided to the Board or Committee Executive Sessions, unless the Board has formally waived privilege on the advice. President Newstetter added that this is important for the function of the Board and personal legal safety. Mr. Singh mentioned that although he does not speak for the Board, he does use information he gains as a Board and Committee member to implement changes at his worksite, and expressed an interest in ensuring that he is properly separating his roles. AAG offered to advise Mr. Singh as a Board member on any specific issues that may come up, to assist him in maintaining that boundary.

#### **DIGITAL SIGNATURES TASK FORCE**

Mr. Singh reported that the Task Force met on February 13, 2015 and discussed the matters contained in the Committee minutes (**Item 4: Digital Signatures Task Force Meeting Minutes of February 13, 2015**). Draft language was provided to the Board for rules related to the Official Seal – Wet Seal for Hard Copy Final Documents and Official Seal – Digital Seal and Signature for Electronic Final Documents, as discussed previously during the DSTF and RRC Meetings in February 2015. An in-depth discussion occurred regarding whether or not each page or sheet of a final document, which includes any document that conveys engineering or surveying knowledge, analysis, judgment or recommendation, should be required to bear a seal and signature. The Board discussed what is considered a “document” and “final document.” Members were also concerned with how the draft language would relate to multipage calculations, reports, and drawings, including drawings that did not require engineering knowledge to complete and/or are not intended for construction. Ms. Duquette suggested that the members agree with the current wet signature standard of practice; however, the rules do not appear to adequately define it. President Newstetter inquired if there is a need for an additional Task Force or joint meeting between the DSTF and the RRC to further discuss the matters. Mr. Boyd wondered how the Oregon Department of Transportation works with digital signatures; Mr. Singh described the general process. Ms. Gilbert reminded the Board of the Question forms submitted that brought the issue into focus.

Ms. Duquette inquired if other state Boards have dealt with rules related to the Official Seal – Wet Seal for Hard Copy Final Documents and Official Seal – Digital Seal and Signature for Electronic Final Documents. President Newstetter directed staff to contact other states to see if any efforts have been made and to share the information with AAG Lozano. Ms. Duquette added that it may be especially helpful to contact other states on the west coast. AAG Lozano reminded the Board to focus on consumer safety. There was no further discussion.

#### **EXAMINATIONS AND QUALIFICATIONS COMMITTEE**

Mr. Kent reported that that EQC met on February 5 and 13, 2015 and discussed the matters contained in the Committee minutes (**Item 5: Examinations & Qualifications Committee Meeting Minutes of February 13, 2015**). It was moved and seconded (Boyd/Duquette) to approve the Consent Agenda (Attachment B). Mr. Kent also provided updates on the final orders for contested cases.

#### **Contested Cases**

It was moved and seconded (Boyd/Zuniga) to approve the final order for case 2846 – Nick M. Kerber. There was no additional discussion. The motion passed unanimously.

It was moved and seconded (Kent/Van Dyke) to approve the final order for case 89117-0614 – William M. Rickard. Mr. Burger noted a typographic error on page six of eight regarding the spelling of Mr. Rickard's last name. The motion passed unanimously.

It was moved and seconded (Kent/Burger) to approve the Default Final Order for Case 87635-0614 – Marshall L. Lake. AAG Lozano clarified that Mr. Lake did not appear for the OAH hearing. The motion passed unanimously.

Katelyn Morse, Case ADDY WE NEED HER CASE NUMBER HERE: AAG Lozano reported that an official transcript was received from Katelyn Morse demonstrating that a Bachelor of Science degree in engineering was obtained from George Fox University with a May 2013 graduation date, within her required window of time for the "Dean's Stamp" temporary waiver to apply. As background, OSBEELS was not able to consider Ms. Morse's examination results valid, or release Ms. Morse's examination results to her until proof was provided of her timely conferral date. During the February 13, 2015 EQC meeting, AAG Lozano had reported that she intended to file a Motion for Summary Determination and the OAH hearing date was scheduled for 7/28/2015; however, AAG Lozano received proof of timely graduation with Ms. Morse's hearing request. Therefore, AAG Lozano suggested withdrawing the Notice of Application Denial. It was moved and seconded (Burger/Duquette) to withdraw the Notice of Application Denial issued to Ms. Morse. The motion passed unanimously.

### **Comity List**

It was moved and seconded (Boyd/Duquette) to approve the list of applicants for registration by comity containing 60 individuals. Mr. Boyd verified that staff has reviewed the applications on the list as meeting the minimum requirements. The motion passed unanimously.

### **1<sup>st</sup> Registration List**

It was moved and seconded (Zuniga/Boyd) to approve the list of applicants for registration by 1<sup>st</sup> registration containing 17 individuals. There was no additional discussion. The motion passed unanimously.

During the February 13, 2015 EQC meeting, the Committee discussed possible rule revisions to OAR 820-020-0005. In the event that the Board wished to refuse to issue registration or certificates of enrollment based on the applicant's violation of a Board rule of professional conduct, the professional conduct rules would require revision. The Board supported EQC's recommendation to modify the rule to include the applicant. Mr. Kent reminded the Board that denial of enrollment certificates and registration for violations of the Board rules of professional conduct are allowed under ORS 672.200(6) but not included in the rules for professional conduct themselves. It was moved and seconded (Kent/Burger) to refer OAR 820-020-0005 to the RRC to begin the rule making process. The motion passed unanimously.

Also recommended during the February 13, 2015 EQC meeting, the Board discussed EQC's ability to issue letters of concern informing individuals violating the title act in lieu of

forwarding the matter(s) to the LEC. Mr. Van Dyke commented that in his experience, he has seen many title violations in the industry, including titles bestowed upon employees by employers. President Newstetter and Ms. Duquette added similar comments regarding their experiences. AAG Lozano noted that LEC cases regarding title violations are often closed as compliance met. She suggested that if the Board votes to allow the EQC to issue letters of concern, in lieu of forwarding cases to the LEC, that staff include the letters of concern issued, which document informing the individuals of the title act, in the Applicants' files. The Board supported EQC's recommendation. It was moved and seconded (Boyd/Van Dyke) to allow the EQC to issue letters of concern informing individuals violating the title act in lieu of forwarding the matter to the LEC. There was no additional discussion. The motion passed unanimously.

### **EXTERNAL RELATIONS COMMITTEE**

Mr. Wahab reported that the ERC met on February 13, 2014 and discussed the matters contained in the Committee minutes (**Item 6: External Relations Committee Meeting Minutes of February 13, 2015**).

An error was noted in the spelling of Mr. Zuniga's name. It was moved and seconded (Wahab/Singh) to approve the Consent Agenda (Attachment C) as amended. There was no additional discussion. The motion passed unanimously. The Board then discussed member attendance to the 2015 Annual PEO Conference, including member's ability to claim PDH credit. AAG Lozano summarized the discussion held during the February 13, 2015 ERC meeting. She further explained that if OSBEELS pays for a Board member to attend, that member cannot then also claim PDH credit. The Board agreed to revisit the discussion during the May Board meeting to review the legal advice. AAG Lozano recommended staff submit any further questions to the Oregon Government Ethics Commission once the legal advice is received.

### **FINANCE COMMITTEE**

Mr. Hoffine reported that the FC met on February 13, 2015 and discussed the matters contained in the Committee minutes (**Item 7: Finance Committee Meeting Minutes of February 13, 2015**).

Ms. Lopez reminded the Board that the FC will be developing the upcoming budget during the April 2015 Committee meeting and reviewing the proposals received for auditing services. There was no additional discussion.

### **LAW ENFORCEMENT COMMITTEE**

Mr. Boyd reported that the LEC met on February 12, 2015 and discussed the matters contained in the Committee minutes (**Item 8: Law Enforcement Committee Meeting Minutes of February 12, 2015**).

Mr. Boyd directed the attention of the Board to the LEC consent agenda. Mr. Boyd clarified that Mr. Martin would also receive a letter of reprimand. It was moved and seconded (Zuniga/Kent) to approve Consent Agenda Items 1 and 2; final orders (Attachment D). The motion passed unanimously. It was moved and seconded (Boyd/Kent) to approve the Consent Agenda Items 1

through 5; additional action items (Attachment D). There was no additional discussion. The motion passed unanimously.

### **PROFESSIONAL PRACTICES COMMITTEE**

Mr. Hoffine reported that the PPC met on February 13, 2015 and discussed the matters contained in the Committee minutes. (**Item 9: Professional Practices Meeting Minutes of February 13, 2015**).

**Mr. Hoffine lead the Board into executive session pursuant to ORS 192.660 (2)(f) to review records not subject to public disclosure. 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.**

The Board discussed waiving privilege on DOJ File No. 917001 GB0632-14 (ORS 209.250 Survey Monument Marking). It was moved and seconded (Boyd/Zuniga) to approve Consent Agenda Item 1 (Attachment E). Mr. Singh voiced pre-vote opposition. For discussion, Mr. Singh commented that he would only be comfortable waiving the advice if the Board plans to move forward on the rule making process. Mr. Boyd and Mr. Singh discussed various situations regarding information on survey monument marking; including what issues may arise if survey monuments contain multiple state license numbers. Concerns regarding the addition of information and other endless possibilities that may be included on monument markers and the potential impact to the public were also raised. The motion passed by majority vote. In his experience, Mr. Singh explained that many professionals believe that only one state license number can be provided on survey monument marking. He warned the Board that more issues may arise now that the advice has been waived. The Board discussed Mr. Singh's concerns. It was moved and seconded (Kent/Duquette) to forward the matter to the RRC for additional discussion. For discussion, members mentioned that if a PLS is registered in multiple states, each license number could be included for each state listed on the survey monument marking. Mr. Boyd wondered if the RRC might consider only allowing one license number and any potential fiscal impacts.

AAG Lozano reminded the Board that, if the members do decide to waive privilege, they may now respond to the original question submitted to the RRC regarding survey monument marking by providing the waived advice. The motion passed unanimously. Ms. Gilbert will contact Jerry Anderson, who posed the original question regarding whether or not ORS 209.250 (or any other statute) prohibits additional information on a survey marker and provide him with a copy of the waived legal advice. Concerns were raised regarding the addition of information and other endless possibilities that may be included on monument markers and the potential impact to the public. As a result, further discussion will occur during the April meeting of the Rules and Regulations Committee (RRC).

### **RULES AND REGULATIONS COMMITTEE**

Mr. Hoffine reported that the RRC met on February 13, 2015 and discussed the matters contained in the Committee minutes (**Item 10: Rules and Regulations Committee Meeting Minutes of February 13, 2015**). AAG Lozano briefly described where the PPC and RRC differ regarding the drafted language related to the Official Seal – Wet Seal for Hard Copy Final Documents and Official Seal – Digital Seal and Signature for Electronic Final Documents. The

Board agreed to pull Consent Agenda Item 3 (Attachment F) to discuss revisions and stance restructuring. It was moved and seconded (Kent/Duquette) to approve Consent Agenda Items 1 and 2 (Attachment F). There was no additional discussion. The motion passed unanimously. The Board then revisited Consent Agenda Item 3 (Attachment F) and were requested minor adjustments were made. It was moved and seconded (Boyd/Hoffine) to approve Consent Agenda Item 3 (Attachment F) as amended. There was no additional discussion. The motion passed unanimously.

## **UNFINISHED BUSINESS**

There was no unfinished business.

## **NEW BUSINESS**

### Nominating Committee

President Newstetter explained the history of the current appointments and past nominations. She reminded the Board that her Presidency will expire in June 2015 and announced that the election will take place in May 2015. She appointed herself, Mr. Hoffine and Mr. Boyd to the Nominating Committee. Mr. Boyd explained that he will be traveling and is scheduled to return on April 10, 2015. As a result, President Newstetter appointed Mr. Kent to serve as the LEC Ad hoc Chair for the April 2015 meeting. There was no further discussion.

## **LEGAL BRIEFING**

AAG Lozano provided an update regarding the North Carolina State Board of Dental Examiners and the Federal Trade Commission (FTC) case that was heard by the United States Supreme Court in fall 2014. The U.S. Supreme Court issued its ruling concerning the case of the North Carolina Dental Board vs. the Federal Trade Commission. As background, the North Carolina Dental Board issued a ruling that only licensed dentists were legally authorized to offer and provide teeth whitening services since such procedures could impact the health and welfare of the public. The Federal Trade Commission filed a complaint that was heard by an administrative law judge alleging that the actions by the North Carolina Dental Board were a restraint of the trade in violation of antitrust laws, due to the makeup and authority structure of the Board. The North Carolina Dental Board appealed the decision, but did not prevail. They then filed a second appeal in federal court, but did not prevail. They then requested a review by the Supreme Court. The Supreme Court agreed to hear the case and several national associations, including NCEES and numerous states (including Oregon) filed amicus briefs with the Supreme Court to provide arguments in support of the North Carolina Dental Board's position. However, the North Carolina Board of Dental Examiners did not prevail; the Supreme Court affirmed the prior decisions. AAG Lozano reminded the members that their sole mission and role at OSBEELS is protection of the public by regulating the profession, not protection of the profession itself or of practitioners' financial interests. She noted that additional related information from the Oregon Department of Justice may be provided in future Board meetings.

## **BOARD MEMBER COMMENTS**

There were no Board member comments.

## **ADJOURN**

The meeting was adjourned at 1:35 p.m.

### **November 2012 ACTION ITEMS:**

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

### **March 2013 ACTION ITEMS:**

- Complete CA Geotechnical examination contract – awaiting a return draft from California.

### **November 2013 ACTION ITEMS**

- AAG Lozano will be coordinating with board members and staff to evaluate and edit Ms. Lopez's position description.

**Staff Update:** The process of revising Ms. Lopez's position description has begun.

## **NEXT MEETING**

Saturday, May 16<sup>th</sup> in Sunriver, Oregon.



## Consent Agenda

### *March 10, 2015 Board Meeting*

The following consent agenda is presented for the March 10, 2015 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.

<b>Item #</b>	<b>In the matter of:</b>	<b>Action:</b>
1	Approval of March 10, 2015 Board agenda.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
2	Approval of January 15, 2015 Board meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
3	Approval of February 13, 2015 Special Board meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
4	Approval of February 13, 2015 Digital Signatures Task Force meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
5	Approval of February 13, 2015 Examinations and Qualifications Committee meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
6	Approval of February 13, 2015 External Relations Committee meeting minutes.	<u>Pulled by President</u> <u>Newstetter.</u> <u>Moved/Seconded</u> <u>(Duquette/Kent).</u>
7	Approval of February 13, 2015 Finance Committee meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
8	Approval of February 12, 2015 Law Enforcement Committee meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
9	Approval of February 13, 2015 Professional Practices Committee meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>
10	Approval of February 13, 2015 Rules & Regulations Committee meeting minutes.	<u>Moved/Seconded</u> <u>(Singh/Duquette)</u>



## Consent Agenda

### Examinations & Qualifications *March 10, 2015 Meeting*

The following consent agenda is presented for the March 10, 2015 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 Paul Singer's application to take the FE examination (OAR 820-010-0225).	<u>Moved/Seconded</u> <u>(Boyd/Duquette)</u>
2	Deny Michael Antonishen's request for a waiver of supervisory PE references and to Deny the application for the April 2015 Electrical PE examination administration. (OAR820-010-0212(1)(c)(C) and OAR 820-010-0230).	<u>Moved/Seconded</u> <u>(Boyd/Duquette)</u>
3	Deny Clare Paul's PE application for a Civil registration by comity (OAR 820-010-0225(2)(d)).	<u>Moved/Seconded</u> <u>(Boyd/Duquette)</u>
4	Deny Yu-Yih Wu's application for a Mechanical registration by comity (ORS 672.102 and ORS 672.148).	<u>Moved/Seconded</u> <u>(Boyd/Duquette)</u>



# Oregon

State Board of Examiners for Engineering and Land Surveying

## Consent Agenda

External Relations  
*March 10, 2015 Meeting*

The following consent agenda is presented for the March 10, 2015 meeting of the Oregon State Board of Examiners for Engineering and Land Surveying. Items may be removed from the consent agenda on the request of any one member. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent agenda or placed later on the agenda at the discretion of the Board President.

Item #	In the matter of:	Action:
1	Approve <b>OSBEELS Welcomes Oscar J. Zuniga, PE</b> article.	<u>Moved/Seconded (Wahab/Singh).</u>
2	Approve <b>Title Violations</b> article.	<u>Moved/Seconded (Wahab/Singh).</u>
3	Approve payment of Board member registration fees to the 2015 PEO Annual Conference.	<u>Moved/Seconded (Wahab/Singh).</u>



## Consent Agenda

### Law Enforcement Consent Calendar March 10, 2015 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
1	2868	SHAUN PATRICK MARTIN	ORS 672.020(1), ORS 672.045(1) and (2), and OAR 820-020-0025(1)	Approve Default Final Order and Letter of Reprimand	<u>Motion/Second (Zuniga/Kent)</u>
2	2896	STEPHEN T. WARING	OAR 820-010-0605 & ORS 672.020 & ORS 672.045	Approve Default Final Order	<u>Motion/Second (Zuniga/Kent)</u>

**Additional Action Items:** The following cases were discussed at the February 12, 2015, Committee meeting and the Committee recommends action on the following cases/item:

	Case No.	Respondent	Allegation(s)	LEC Recommendation	Action
1	2886	DAN SALTZMAN	ORS 672.045(2)	Close case with a letter of concern.	<u>Motion/Second (Boyd/Kent)</u>
2	2899	ROBERT L. SANDERS	OAR 820-010-0635	Close case as unfounded.	<u>Motion/Second (Boyd/Kent)</u>
3	2900	DAVID L SORENSEN	OAR 820-010-0730	Close case as compliance met.	<u>Motion/Second (Boyd/Kent)</u>
4	2909	JESSE DAVIS	ORS 672.045(2)	Close case as compliance met.	<u>Motion/Second (Boyd/Kent)</u>
5	2917	THERMAL ENERGETICS, LLC	ORS 672.045(1)&(2)	Close case as unfounded.	<u>Motion/Second (Boyd/Kent)</u>



# Oregon

State Board of Examiners for Engineering and Land Surveying

## Consent Agenda

Professional Practices  
*March 10, 2015 Meeting*

The following consent agenda is presented for the March 10, 2015 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	Waive privilege on DOJ File No. 917001 GB0632-14 (ORS 209.250 Survey Monument Marking)	<u>Moved/Seconded</u> <u>(Boyd/Zuniga); Singh</u> <u>opposed.</u>



# Oregon

State Board of Examiners for Engineering and Land Surveying

## Consent Agenda

### Rules and Regulations *March 10, 2015 Meeting*

The following consent agenda is presented for the March 10, 2015 meeting of the Oregon State Board of Examiners for Engineering and Land Surveying. Items may be removed from the consent agenda on the request of any one member. Items not removed may be adopted by general consent without debate. Removed items may be taken up either immediately after the consent agenda or placed later on the agenda at the discretion of the Board President.

Item #	In the matter of:	Action:
1	Approve revisions in OAR 820-040-0005 to proceed with the Rulemaking process.	<u>Moved/Seconded</u> <u>(Kent/Duquette)</u>
2	Approve revisions in OAR 820-010-0635 to proceed with the Rulemaking process.	<u>Moved/Seconded</u> <u>(Kent/Duquette)</u>
3	Approve revisions in OAR 820-050-0001 to proceed with the Rulemaking process, as amended.	<u>Moved/Seconded</u> <u>(Boyd/Hoffine)</u>