



# Oregon

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STATE BOARD OF EXAMINERS  
FOR ENGINEERING &  
LAND SURVEYING

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## Minutes of Meeting January 12, 2016

### **CALL TO ORDER**

President Kent called the meeting to order at 9:06 a.m. in the Conference Room of the Board office. **Please note:** The Consent Agenda is provided as an attachment to these minutes.

### **ROLL CALL**

#### **Members present:**

Jason Kent  
Christopher Aldridge  
Bill Boyd  
Shelly Duquette  
Logan Miles  
Dave Van Dyke  
Amin Wahab

#### **Members absent:**

Ken Hoffine  
Ron Singh  
Oscar Zuniga

#### **Others Present:**

Mari Lopez, Administrator  
Jenn Gilbert, Executive Assistant  
Jennifer O'Neill, Social and Communications Media Specialist  
Lisa Montellano, Investigator  
JR Wilkinson, Investigator  
Katharine Lozano, Assistant Attorney General  
Michael Hardy, PE  
Cy Smith, Oregon Geospatial Information Officer  
Darrell Fuller, Professional Land Surveyors of Oregon Lobbyist

### **PUBLIC INPUT**

Michael Hardy, PE, provided the Board with a handout regarding the Pacific North West Economic Region (PNWER) Workforce Development Working Group. He expanded on the information that was provided and how the Workforce Development Working Group is identifying the barriers to addressing labor shortages, the key stakeholders, and specific actions

that can be implemented to alleviate those shortages. Mr. Hardy expressed most concern regarding PNWERs interest in “licensing bodies for engineers to adopt policies or present amendments to their respective legislative bodies which allows them to waive the requirement for satisfaction of prescriptive credentials in education and examination if the applicant meets specific criteria adopted by each jurisdiction.” Following Mr. Hardy’s presentation, President Kent shared that he had many questions and directed members to provide him with their questions, if any, regarding the information provided by Mr. Hardy. President Kent stated that he would be compiling the questions into one list to be forwarded to Mr. Hardy.

### **BOARD CONSENT AGENDA**

President Kent pulled the Finance Committee meeting minutes (Attachment A, Item 7). It was moved and seconded (Kent/Aldridge) to approve the Board Consent Agenda (Attachment A) as amended. The motion passed unanimously. There was no further discussion.

### **ADMINISTRATOR’S REPORT**

Ms. Lopez announced that the Examinations and Qualifications Committee, External Relations Committee, Finance Committee, Law Enforcement Committee, Professional Practices Committee, Rules and Regulations Committee, and the Oregon Specific Exam Task Force Committee each met during the interim and that the Committee minutes are made part of the record.

#### ***Oregon State-Specific Principles and Practice of Engineering (“PE”) Forestry Engineering Examination***

Ms. Lopez then explained that she and Dr. John Sessions, Forestry Engineering Examination Liaison, have agreed on a secure plan to transfer all the Oregon state-specific forest engineering examination questions and answers currently in possession or control of him or team members. Additionally, the OSBEELS Conference room has been reserved for his team to meet on February 16 to prepare for the 2016 forest engineering examination and strategize for the future. An agreement was then drafted and provided to Mr. Sessions. To date, OSBEELS has not received a signed copy of that agreement.

#### ***Oregon Department of Water Resources***

She reported that as part of the Governor’s Executive Order #15-09 on drought, all state agencies, boards and commissions were asked to complete a Water Conservation and Efficiency Plan; OSBEELS participated.

#### ***Pacific NorthWest Economic Region (PNWER)***

Ms. Lopez informed the Board that a request for a meeting with the OSBEELS and members of the Professional Associations has been received from Colin Smith, Association of Professional Engineers and Geoscientists of British Columbia (APEGBC) Delegate to PNWER, and PNWER Private Sector Lead, Canada. Ms. Lopez provided the Board with a copy of a presentation from PNWER made at the 2015 PNWER Summit. She also provided the Fall/Winter 2015 News Bulletin for the Idaho Board of Professional Engineers and Professional Land Surveyors. She then asked if the Board was interested in participating.

AAG Lozano advised that it would be beneficial for members to attend. Members shared their availability and interest in attending; however, no members were available to attend. President Kent directed staff and legal counsel to attend the meeting on behalf of OSBEELS.

***Joint Compliance Committee (JCC) / OSBEELS and the Oregon State Board of Geologist Examiners (OSBGE)***

Ms. Lopez also reminded the Board that a JCC meeting is scheduled to be held on February 4 at 1:00 p.m. to be hosted by OSBEELS.

***The Council on Forest Engineering (COFE) – Western Region***

She shared that the Western Region Council on Forest Engineering (COFE) has requested OSBEELS' participation during their Annual Seminar on January 14 in Eugene. Brianna Weekly, Amelia Volker, and Tina Sorensen plan to provide a presentation on obtaining registration and the requirements for continuing professional development.

***Professional Land Surveyors of Oregon (PLSO) – 2016 Annual Conference***

She also shared that the PLSO has requested OSBEELS' participation during their Annual Conference on January 22 in Eugene. JR Wilkinson and Lisa Montellano plan to present an introduction to OSBEELS Law Enforcement Processes and Amelia Volker and Tina Sorensen plan to provide a presentation on the Renewal and Audit Processes.

***Board Vacancies***

Ms. Lopez informed the Board that the Governor's Office has yet to fill the engineering position vacated by Mr. Burger (ORS 672.240(1)(c)) and reminded the Board that Mr. Hoffine's term is ending this June, noting that the Governor's Office currently has no applications from dual-registrants.

***Staffing***

She shared that Denise Warburton and JR Wilkinson attended a training provided by Salem City Club on November 6, 2015 - *When Cascadia Strikes: Do you really know what to do?* Presented by: Ed Flick, Marion County Emergency Manager and Roger Stevenson, City of Salem Emergency Manager. Additionally, Jenn Gilbert began training on January 6 provided by the State of Oregon, Management Education Series: Foundational Training Program. This is an instructor-led program with eight days of in-class time spread over eight weeks (one session per week).

Interviews to fill the third position of Compliance Specialist 2 (Investigator) were conducted on Thursday, January 7. Danee Vig was hired to fill a Registration Specialist (Administrative Specialist 2) position. She began employment on December 7. Interviews to fill the 3rd position Registration Specialist (Administrative Specialist 2) were conducted on Monday, January 11.

Ms. Lopez then updated the Board that the announcement position for Office Specialist 1 (File Clerk) was reopened and interviews for the position will be conducted during the week of January 18.

President Kent brought up a discussion regarding the California Geotechnical examination and when the contract expired. It was explained that the OSBEELS Staff and AAG Lozano have reached out to continue the process in drafting a contract. However, a response has not been received.

Ms. Lopez then handed out information regarding the upcoming National Council of Examiners for Engineering and Surveying (NCEES) Western Zone meeting to be held in Alaska. She asked that members contact her if they were interested in attending. There was no further discussion.

## **PRESIDENT'S REPORT**

President Kent commented that he had no Report for the items he wished to discuss were listed under Legal Briefing on the agenda. There was no further discussion.

### **Data Sharing Legislative Concept**

Cy Smith, Oregon Geospatial Information Officer, provided the Board with a handout regarding geospatial data sharing between public bodies. He then elaborated on the information provided. Mr. Smith explained that once available, a copy of the Legislative Concept concerning geospatial data sharing between public bodies would be sent to the OSBEELS. AAG Lozano requested that she be included on any communications. Mr. Miles wondered if there was any concern regarding the use of the term "locate and describe boundaries" in the handout Mr. Smith provided. Mr. Smith briefly described the intent of this section in the handout. President Kent asked Mr. Smith what the main benefits were of the proposal. Mr. Smith explained that personally the primary benefit would be that government agencies would be able to more easily share data allowing more detailed data to be created. Subsequently, fewer duplicates would be created, in turn, being more cost efficient. AAG Lozano mentioned that something to be considered would be that as the regulatory agency, the most likely geospatial data that would come from the custody of OSBEELS would either be unlawfully, negligently, or incompetently created. There was no further discussion.

## **EXAMINATIONS AND QUALIFICATIONS COMMITTEE**

Ms. Duquette summarized the matters contained in the meeting minutes of the EQC (Attachment A, Item 5: Examinations and Qualifications Committee Meeting Minutes of December 12, 2015).

### EAC Criteria Changes

Ms. Duquette briefly summarized the email received from Jerry Carter, Chief Executive Officer for NCEES, requesting member Boards to review and consider the information regarding the proposed changes made to the Engineering Accreditation Commission (EAC) criteria. The email also informed member boards that the item will be included on the NCEES Board's February agenda and that any comments should be forwarded to NCEES regarding the proposed changes. There was no further discussion.

### Denial recommendations

Ms. Duquette then summarized each denial recommendations made during the December EQC meeting. It was moved and seconded (Kent/Aldridge) to accept the denial recommendations

made by the EQC during its December meeting. The motion passed unanimously. There was no further discussion.

#### Rulemaking recommendations

Ms. Duquette explained that the EQC made rulemaking recommendations to the Board. After a brief discussion, it was moved and seconded (Miles/Aldridge) to begin the Rulemaking process to amend OAR 820-005-0035, 820-005-0050 and 820-005-0065. The motion passed unanimously.

Ms. Duquette then explained the rulemaking recommendations made to the Board regarding 820-010-4000. A discussion was held regarding the structural examinations offered by the Illinois Board. It was moved and seconded (Kent/Aldridge) to begin the Rulemaking process to amend OAR 820-010-4000 and to begin the temporary Rulemaking process of OAR 820-010-4000. The motion passed unanimously. There was no further discussion.

#### Oregon Specific Land Surveying Semi-Annual Report

On behalf of Bob Neathamer, Oregon Specific Four-hour Land Surveying Examination Liaison, Mr. Miles elaborated on the Oregon specific four-hour land surveying examination report. AAG Lozano suggested that the secure plan to transfer the forest engineering examination questions and answers also be shared with Mr. Neathamer for consideration in transferring the Oregon specific four-hour land surveying examination. A discussion was held regarding how the grading of the Oregon specific four-hour land surveying examination is conducted. Staff was then directed to forward Mr. Neathamer the same agreement that was provided to Mr. Sessions. It was moved and seconded (Kent/Duquette) to approve the list of examination team members provided in Mr. Neathamer's letter. The motion passed unanimously. There was no further discussion.

### **EXTERNAL RELATIONS COMMITTEE**

Mr. Wahab summarized the matters contained in the meeting minutes of the ERC (Attachment A, Item 6: External Relations Committee Meeting Minutes of December 12, 2015). President Kent provided a revision to the "Senate Bill 297-A Passed" article. After a brief discussion, it was moved and seconded (Kent/Duquette) to approve the "Senate Bill 297-A Passed" article as amended, the "Discovering the Past" article and the "Law Enforcement Cases from May 2015 to November 2015" article to be published in the Oregon Examiner. The motion passed unanimously. There was no further discussion.

#### PEO Program Announcement

After a brief discussion, it was moved and seconded (Kent/Duquette) to approve the Professional Engineers of Oregon (PEO) program announcement to be included in the Winter 2016 Oregon Examiner Newsletter. The motion passed unanimously. There was no further discussion.

### **FINANCE COMMITTEE**

President Kent provided revisions to the meeting minutes of the Finance Committee. After a brief discussion, it was moved and seconded (Duquette/Wahab) to approve the Finance Committee meeting minutes of December 12, 2015 as amended. The motion passed unanimously. There was no further discussion.

### One Card Agreement

Ms. Lopez explained the purpose in the development of the Credit Card Agreement. If approved, the agreement is to be signed by each OSBEELS staff before issuance of an OSBEELS credit card to ensure their knowledge of responsibilities in safeguarding OSBEELS' assets. It was moved and seconded (Miles/Van Dyke) to approve the Credit Card Agreement. The motion passed unanimously. There was no further discussion.

### **LAW ENFORCEMENT COMMITTEE**

President Kent moved Case #2857 – United Engineering, Inc. to Unfinished Business. Mr. Boyd then summarized the matters contained in the meeting minutes of the LEC (Attachment A, Item 4: Law Enforcement Committee Meeting Minutes of December 11, 2015).

#### Case #2877 – Coppock, Judson

After a brief discussion, it was moved and seconded (Boyd/Kent) to approve the Default Final Order (DFO) to reduce the civil penalty to \$250.00. The motion passed unanimously. There was no further discussion.

#### Case #2898 – Lim, Jaime

Mr. Boyd briefly explained the status of case #2877-Jaime Lim. After a brief discussion, it was moved and seconded (Boyd/Duquette) to adopt the Motion for Summary of Determination. The motion passed unanimously. There was no further discussion.

#### Case #2908 – Scott, Paul Gregory

Mr. Boyd then summarized the case #2908 regarding Mr. Scott. It was moved and seconded (Duquette/Aldridge) to withdraw the Notice of Intent (NOI). The motion passed unanimously. President Kent elaborated on the discussion held during the December LEC regarding its determination to make the recommendation to withdraw the NOI and close the case with a letter of concern. It was moved and seconded (Boyd/Duquette) to close the case and issue a letter of concern. The motion passed unanimously. There was no further discussion.

#### Case #2922 – Whitaker, Roger Shane

Mr. Boyd briefly summarized case #2922 regarding Mr. Whitaker. It was moved and seconded (Boyd/Wahab) to approve the DFO. The motion passed unanimously. There was no further discussion.

#### Case #2923 – Alcantar, Marcela

Mr. Boyd then summarized case #2923 regarding Ms. Alcantar. It was moved and seconded (Miles/Duquette) to close the case as allegations unfounded. The motion passed unanimously. There was no further discussion.

#### Case #2935 – Bowen, Andy Ray

Mr. Boyd summarized case #2935 regarding Mr. Bowen. It was moved and seconded (Boyd/Miles) to accept the LEC recommendation to close the case as allegations as unfounded. AAG Lozano wondered if the LEC held a discussion regarding notifying the other states involved in the issues from this case. President Kent answered no. President Kent added an amendment to the motion to direct staff to notify the Idaho Board of Professional Engineers and

Professional Land Surveyors and the Texas Board of Professional Engineers with the information provided of the potential violations. Mr. Boyd accepted the amendment. The motion passed unanimously. There was no further discussion.

#### Case #2936 – Ripley, Sean

Mr. Boyd summarized case #2936 regarding Mr. Ripley. It was moved and seconded to (Boyd/Miles) to accept the LEC recommendation to close the case as allegations unfounded. The motion passed unanimously. There was no further discussion.

### **RULES AND REGULATIONS COMMITTEE**

Due to Mr. Hoffine's absence, RRC members collectively summarized the matters contained in the meeting minutes of the RRC (Attachment A, Item 10: Rules and Regulations Committee Meeting Minutes of December 12, 2015).

The Board reviewed and discussed the recommended amendments to OAR 820-010-0615, OAR 820-010-0720, OAR 820-010-5000, OAR 820-025-0005, and OAR 820-080-0010. After a lengthy discussion regarding OAR 820-010-0720, it was moved and seconded (Boyd/Aldridge) to send OAR 820-010-0720 back to RRC for revisions as discussed. The motion passed unanimously. There was no further discussion.

It was then moved and seconded (Kent/Boyd) to begin the Rulemaking process to amend OAR 820-010-0615, OAR 820-010-5000, OAR 820-025-0005, and OAR 820-080-0010. The motion passed unanimously. There was no further discussion.

Lastly, it was moved and seconded (Kent/Boyd) to begin the temporary Rulemaking process for OAR 820-010-5000. The motion passed unanimously. There was no further discussion.

### **UNFINISHED BUSINESS**

#### Stamping Question on Foundation Recommendations

Ms. Duquette briefly summarized the situation resulted from a stamping question on foundation recommendations received by Troy Hull. Ms. Lopez explained that OSBEELS staff has since compiled additional documentation regarding the situation. A lengthy discussion occurred regarding the documents that were provided with Mr. Hull's question and the subsequent documentation provided by the OSBEELS Staff. The OSBEELS Staff was then directed to contact Lane County to request the sealed and signed plans pertaining to Mr. Hull's question. President Kent tabled the matter to be discussed as the last item of Unfinished Business. There was no further discussion.

#### OAR 820-025-0015 – Final Documents

A brief discussion was held regarding OAR 820-025-0015. It was moved and seconded (Kent/Aldridge) to begin the Rulemaking process to amend OAR 820-025-0015 as revised and to begin the temporary Rulemaking process of OAR 820-025-0015. The motion passed unanimously. There was no further discussion.

#### Debt Collections

Staff explained that the topic of Debt Collections was placed on the agenda for discussion as requested. The Board was asked to discuss how they would like to move forward with

individuals who have been assessed a civil penalty fee by OSBEELS and have not completed the payment process by the required deadline. AAG Lozano explained to the Board that there are certain limitations in pursuing individuals who have not paid their civil penalties that reside outside of Oregon versus those who do. She also explained the extreme difficulty in legally pursuing individuals who have not paid their civil penalty that reside outside of the United States. President Kent inquired about OSBEELS current process. Staff informed the Board that if civil penalty fees are not paid by the required deadline, it is forwarded to the Department of Collections. President Kent wondered what the Board could do to ensure that individuals comply. A brief discussion was held regarding the Board's options. Mr. Aldridge wondered how it would work in situations where the individual has already been sent to the Department of Collections; would OSBEELS be able to take it back from the Department of Collections? AAG Lozano offered to look into it if the Board advised. President Kent questioned what the steps were before placing a lien on someone's possession. Ms. Duquette also wondered how long the Board is able to pursue someone's debt with OSBEELS. AAG Lozano explained that she would further research the concerns of the Board. President Kent then requested that during a future LEC meeting, the Accounting Department Staff provide the process and statuses of cases closed subject to collection. Ms. Lopez updated the Board that she is still looking into contracting with a third party for out-of-state collections as directed. There was no further discussion.

#### Stamping Question

Mr. Wilkinson provided a brief overview of his investigation regarding Mr. Hull's question. Ms. Duquette reiterated the occurrences of the JCC meeting where Mr. Hull's question was first introduced as having been received and answered by the State of Oregon: Board of Geologist Examiners (OSBGE). The Board discussed their concerns regarding the misunderstanding of the Memorandum of Understanding (MOU) of the JCC. It was noted that the OSBGE response provided to Mr. Hull included information based on the determination of a previous case considered by the JCC. AAG Lozano asked that she be provided with a copy of the case referenced for her review. President Kent wondered if the concerns of the Board would be included on the agenda for discussion during the next JCC meeting in February. Ms. Lopez confirmed that it would be placed on the agenda of the February JCC meeting along with the MOU. A brief discussion was then held regarding a request made by the OSBGE Chair asking Mr. Wilkinson to look into the relationship between a Certified Engineering Geologists (CEG) and registered engineers. AAG Lozano explained that the Geology Board members may not direct or control OSBEELS staff without an MOU providing for that activity as it would be a violation of the MOU and of employment law. She then requested that, in the future, all outside requests similar to the one made by the OSBGE Chair, first be forwarded to her for review. President Kent clarified that Mr. Wilkinson would now be contacting Lane County to request the sealed and signed plans relating to Mr. Hull's question at OSBEELS direction. Ms. Lopez added that she would research further information regarding the JCC case referenced earlier in the discussion and would provide it to AAG Lozano for review. President Kent confirmed that once the information is reviewed by AAG Lozano, it is to be placed as Unfinished Business on the agenda for discussion during the next scheduled Board meeting in March. He also requested that the discussion of the JCC be tabled until the Board meeting in March. There was no further discussion.

#### Case #2857 – United Engineering, Inc.

AAG Lozano briefly explained the status regarding case #2857 United Engineering, Inc.

**The Board exited its public meeting pursuant to ORS 192.690(1) for private deliberation on case #2857. 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.** Upon returning to public meeting, it was moved and seconded (Kent/Duquette) to accept the Final Order drafted, upholding the ALJ's proposed order. The motion passed unanimously. There was no further discussion.

## **NEW BUSINESS**

### Right of Entry and Railroad Property - David Artman

The OSBEELS received a Question form from David Artman. Mr. Artman wondered if the Oregon Surveyor right of entry law applies to railroad property and if state law has any legal standing in that context if railroads are largely regulated at the federal level. AAG Lozano explained that to the extent it includes federal land, it is outside of OSBEELS's jurisdiction. Mr. Miles added that it does depend on how railroads are owned, making it very difficult to provide Mr. Artman a definitive answer to his question. Mr. Boyd suggested having legal counsel look into Mr. Artman's questions. A lengthy discussion was held regarding the complexity of each of Mr. Artman's questions and how the Board would respond. In Mr. Artman's Question form he requested that a response be provided no later than mid-January for the purpose of a presentation he was providing. Staff was directed to notify Mr. Artman that his deadline could not be met; however, legal counsel and OSBEELS staff will draft a formal response to be considered during the next Board meeting in March.

## **LEGAL BRIEFING**

**The Board entered into executive session pursuant to ORS 192.660 (2)(f) to review the Legal Briefing provided by legal counsel. All members of the audience were asked to leave the room 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 while in executive session.** Upon exiting executive session, through general consensus, the Board determined to table all Legal Briefing provided by legal counsel until the next Board meeting.

## **BOARD MEMBER COMMENTS**

There was no discussion.

## **ADJOURN**

The meeting was adjourned at 2:35 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.

**NEXT MEETING**

March 8, 2016