



Oregon

**State Board of Examiners for
Engineering & Land Surveying**

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PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting

October 11, 2013

Members present:

Sue Newstetter, Chair

Shelly Duquette

Anne Hillyer

Staff present:

Mari Lopez, Executive Secretary

Jenn Gilbert, Executive Assistant

Joy Pariante

Others present:

Katharine Lozano, Assistant Attorney General

Ken Hoffine (Observer)

Carl Tappert (Observer)

The meeting of the Professional Practices Committee (PPC) was called to order at 1 p.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220 Salem, OR 97301.

Public Comment

There were no public comments.

Unfinished Business

Meaning of ORS 215.080

Steve Haddock posed a question to the Committee during the April 2013 meeting, regarding the meaning of ORS 215.080 Power to enter upon land. As a result, the Committee requested AAG Lozano to research the matter and provide advice.

AAG Lozano reported that her draft advice regarding ORS 215.080 is still under review at the Department of Justice. AAG Lozano also summarized the situation for the new Committee members. The rule pertains to county planners and surveying, particularly regarding right-of-entry notification. AAG Lozano said it doesn't seem that the statute allows for a licensure exemption, but there may be a right-of-entry exemption. She explained that thorough review of the legislative history associated with this case is pertinent because it clarifies the issues occurring that the time the statute was written. For example, if there were a number of discussions regarding avoidance of licensure requirements for county planners who wished to survey and monument, it is possible that licensure exemption was the driving force behind the statute, rather than exemption from right-of-entry notification requirements. This will help

properly interpret the statute.

The formal advice memorandum will be issued by the Opinions Office at the Chief General Counsel's Office and will be discussed during the December 2013 PPC meeting.

Software Engineering

The Committee began discussion on how to best determine if there is a necessity for a software engineering licensure discipline in Oregon. Ms. Newstetter suggested looking at the rules of other states and the NCEES model rules for guidance on definitions and allowances pertaining to software engineering. AAG Lozano suggested that definition additions and changes be changed in rule, rather than in statute. She explained that when a statute is opened for changes by OSBEELS, additional changes can be made by anyone. This is concerning because the statute defines the practice of engineering in Oregon and is the basis for the entire mission of OSBEELS.

Ms. Lopez offered to contact NCEES and its member boards via the board administrator network to discuss how they've implemented software engineering as a discipline. Ms. Newstetter recommended an outreach meeting to get input from the communities that will be most impacted by new licensure requirements. AAG Lozano recommended holding an open forum for interested members of the public either before or after an upcoming Board meeting so all Board members can hear the community concerns first-hand. If a public comment period on this topic occurs within the Board agenda, there is the chance of the meeting falling significantly behind schedule. The scheduling of the meeting for outside the Board meeting agenda allows the focus to remain on software engineering and prevents curtailing the discussion due to time constraints. For comparison, the fire suppression system design issue was discussed in the past. Unlicensed individuals were designing fire suppression systems and no one was enforcing licensure requirements for these designs. Ms. Duquette mentioned that an architect or engineer should review designs of that type before being sent to permitting. Mr. Tappert explained that this review process wasn't happening, which is why this issue arose. Ms. Lopez added that journeyman plumbers were also trying to get involved in fire suppression system design. Ms. Hillyer said she had been reading information online about software engineering and there seemed to be a great deal of strong feelings on the topic. However, she said, most of the forums seemed to oppose software engineering licensure. Ms. Newstetter suggested Staff gather more information on the topic for Board members to review for familiarity prior to the community outreach event. Ms. Duquette asked if NCEES has a software engineering examination for member board use or if Oregon would have to develop a state-specific software engineering examination. Ms. Lopez said there is an NCEES software engineering examination available. AAG Lozano reminded the new Committee members that it isn't necessary to follow NCEES examination requirements or model rules. She explained that NCEES acts as a bridge between member boards and the NCEES mission is to further the professions of engineering and land surveying. This is in opposition of the OSBEELS mission: to protect the public, without consideration of the impact on the profession. Staff was directed to put together informational packets pertaining to software engineering for review during the December Committee meeting.

New Business

Clarification on Engineers Performing Survey Work

A registrant submitted a question to the Committee regarding engineers performing surveying work. The registrant's firm has previously performed topographic surveys and they would

research map of surveyor for that parcel and pick up the locations of the property pins noted on the map of surveys as part of the field work. Property lines would then be drawn in based on the recorded map of surveys and a note was added to explain the origin of the information on the property lines. A former employee was told by the county surveyor that this procedure was acceptable. However, the registrant is concerned that this type of survey activity is prohibited under ORS 672.005. AAG Lozano asked the Committee to wait until after her legal briefing at the November Board meeting to address this issue; as the briefing will contain related information. The Committee directed Staff to contact the registrant who asked the question and let them know it will be discussed during the December Committee meeting.

The meeting adjourned at 1:25 p.m.