



Oregon

STATE BOARD OF EXAMINERS
FOR ENGINEERING &
LAND SURVEYING

670 Hawthorne Ave. SE, Suite 220
Salem, OR 97301
(503) 362-2666
Fax (503) 362-5454
E-mail: osbeels@osbeels.org

PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting
February 13, 2015

Members present:

Ken Hoffine, Chair
Steven Burger
Shelly Duquette
Oscar Zuniga

Staff present:

Mari Lopez, Board Administrator
Jenn Gilbert, Executive Assistant
Adaira Floyd, Social and Communications Media Specialist

Others present:

Katharine Lozano, Assistant Attorney General
Sue Newstetter (Observer)

The meeting of the Professional Practices Committee was called to order at 1:07 p.m. in the OSBEELS Conference Room at 670 Hawthorne Avenue SE, Suite 220, Salem, OR 97301.

Public Comment

There was no public comment.

Unfinished Business

Seal and Signature Rules

As discussed in previous meetings, AAG Lozano drafted language for rules related to the Official Seal – Wet Seal for Hard Copy Final Documents. Mr. Burger commented on the drafted language in section (5) and expressed concern on how the change would require an adjustment to current practice in his office. AAG Lozano recommended that, because the PPC committee and DSTF have different positions on what they would recommend to the full board on that issue, the issue be submitted to the Board for discussion. It was moved and seconded (Boyd/Duquette) to recommend the draft language on Official Seal – Wet Seal for Hard Copy Final Documents be submitted to the Board for discussion. There was no additional discussion. The motion passed unanimously.

ORS 209.250 Survey Monument Making – AAG Advice

An email was received from Jerry Anderson with questions related to ORS 209.250. After discussion during the October 2014 Committee meeting, the PPC directed AAG Lozano to conduct further research on the matter. **The Committee entered into executive session pursuant to ORS 192.660 (2)(f) to review AAG Lozano's legal advice. 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.** Mr. Zuniga inquired if it would be confusing to see additional information on a survey marker (aside from what is required). Chair Hoffine responded and expressed that it would not typically be distracting to a PLS. Mr. Zuniga also asked if additional information would be distracting or confusing to the public. Chair Hoffine explained that, in his experience, questions from the public are most often about reference monuments, not what is on the cap. Mr. Burger asked if a logo/image or advertisement would be confusing; Chair Hoffine responded that there is potential that it could be. For discussion, Ms. Duquette asked how Mr. Anderson's question is different from other questions, especially questions where the Board informs the individual that they may choose to consult a private attorney. AAG Lozano explained that the Committee directed her to research and conduct statutory analysis on a very specific question asked by Mr. Anderson. If the Board determines to waive the privilege on the advice, AAG Lozano noted that prior Board practice in similar situations when privilege has been waived has been to send the requestor a cover letter with a copy of the advice that was provided to the Board. She explained that if the board takes that course, it is not issuing a declaratory ruling and is not advising the requestor, but simply sharing legal advice the Board itself was given on the matter. It was moved and seconded (Hoffine/Zuniga) to recommend the Board waive privilege on this advice so that a copy of it can be provided to the requestor. There was no additional discussion. The motion passed unanimously.

New Business

Hydrography and the Practice of Land Surveying – Ben Hocker

The Committee reviewed and discussed the Question form submitted by Ben Hocker, dated 1/19/2015. The question requested the Board's position on various matters related to hydrography. The question inquired if specific items of conduct on a hydrographic surveying job fall under the definition of land surveying (ORS 672.005). A project scenario and methodology were also included. AAG Lozano reminded the Committee of its response options. It was moved and seconded (Duquette/Zuniga) to decline to answer Mr. Hocker's Question form relating to hydrography and the practice of land surveying. For discussion, Chair Hoffine expressed that he feels the Committee would not be able to answer the questions unless an actual issue arises. AAG Lozano added that Mr. Hocker is welcome to file a complaint or seek a private attorney's advice. Mr. Zuniga inquired if there are any sections on water in the NCEES LS 6-hour exam. Ms. Gilbert pulled up the NCEES website and visited the page on the April 2014 NCEES LS 6-hour exam. A section was listed under "types of surveys," "hydrographic surveys." The motion passed. Chair Hoffine abstained. There was no further discussion.

The meeting adjourned at 1:37 p.m.