



Oregon

STATE BOARD OF EXAMINERS
FOR ENGINEERING &
LAND SURVEYING

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PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting
April 10, 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

The meeting of the Professional Practices Committee was called to order at 1:03 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

Industrial Exemptions and Private Timber Companies – AAG Advice

The Committee entered into executive session pursuant to ORS 192.660 (2)(f) to review and discuss the legal advice regarding Industrial Exemptions & Private Timber Companies. All members of the audience were asked to leave the room for the 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 in executive session. It was moved and seconded (Hoffine/Duquette) to recommend the Board waive privilege on DOJ File No. 917001-GB0025-15 Industrial Exemptions and Private Timber Companies. There was no additional discussion. The motion passed unanimously. Ms. Lopez asked if waiving the advice would also waive related advice of the past; AAG Lozano confirmed, noting that this action releases the 2010 legislative history in DOJ File No. 917001-GB0349-10 and No. 7821 11/29/1979 and had no reservations about the Committee's recommendation. AAG Lozano explained three ways to supply the information to the public: 1) a Board vote and decision to

waive privilege on the advice, which can then be publicly distributed 2) a declaratory ruling, regardless of whether privilege is waived, and 3) through final orders on LEC cases, regardless of whether privilege is waived. Next, AAG Lozano reminded the committee of the risks associated with providing a declaratory ruling on the matter. Chair Hoffine commented that the advice could make a major change in the industry. Ms. Lopez reminded the Committee that the advice was requested in relation to a LEC case that is currently under investigation. It was moved and seconded (Hoffine/Zuniga) to direct AAG Lozano to meet with ODF counsel and to direct staff draft an article on the advice if the Board votes to waive privilege provided by AAG Lozano. There was no additional discussion. The motion passed unanimously.

New Business

As built – Mariela Tapia

A question form was submitted to the Board by Ms. Tapia on the topic of as built. Ms. Tapia asked if as built drawings are required by law to be signed and seal. She also asked the Committee to clarify who is considered in responsible charge of the work related to as built documentation. Ms. Duquette suggested sending Ms. Tapia the rules on responsible charge requirements and on who can modify documents. It was moved and seconded (Zuniga/Duquette) to respond to Ms. Tapia by explaining that the OSBEELS rules are currently silent on as built and provide her with the a copy of the current rules. There was no additional discussion. The motion passed unanimously.

Requirements for engineers to seal their work – Brett King

A question form was submitted to the Board by Mr. King on the topic of requirements for engineers to seal their work. Mr. Zuniga disclosed that Mr. King was once employed by his (Zuniga's) current employer but stated for the record that he did not know Mr. King well. AAG Lozano suggested tabling an answer to Mr. King pending the Board's decision to waive privilege on the DOJ advice. It was moved and seconded (Hoffine/Zuniga) to respond by sending Mr. King the DOJ advice, pending the Board's decision to waive privilege. There was no additional discussion. The motion passed unanimously.

Requirements for companies to have licensed engineers on staff – Brett King

A question form was submitted to the Board by Mr. King on the topic of requirements for companies to have licensed engineers on staff. AAG Lozano noted that the Board does not regulate offices or companies in Washington and provided that in order to do engineering work in Oregon; an Oregon PE must be employed full-time. She also pointed out that there is no title protection in Oregon regarding branches of engineering listed in OAR 820-020-0020 (example: title of "Fire Protection Engineer.") Through general consensus, the Committee directed staff to contact Mr. King for clarification on the third portion of his question. There was no additional discussion.

Requirements for businesses advertising engineering services – Jeanne Niemer

A question form was submitted to the Board by Ms. Niemer on the topic of requirements for businesses advertising engineering services. Ms. Duquette pointed out that the LEC currently has a related case open on Ms. Niemer's employer. AAG Lozano added due to the open LEC case, the Committee is advised not to respond to Ms. Niemer's specific question. Chair Hoffine directed staff to send Ms. Niemer the laws and rules for responsible charge and the requirement

of a full-time PE as included in ORS 672.002(9)(10), OAR 820-010-0010(5)(6), and OAR 820-010-0720. There was no additional discussion.

The meeting adjourned at 2:14 p.m.