



Oregon

State Board of Examiners for
Engineering & Land Surveying
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Minutes of Meeting
January 10, 2012

CALL TO ORDER

President Linscheid called the meeting to order at 9:00 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.

Members Present:

Dan Linscheid
Steven Burger
James Doane
Ken Hoffine
Sue Newstetter
John Seward
Carl Tappert
Amin Wahab
Grant Davis

Others Present:

Mari Lopez, OSBEELS Executive Secretary
Jenn Gilbert, OSBEELS Executive Assistant (excused absence)
Allen McCartt, OSBEELS Investigator
JR Wilkinson, OSBEELS Investigator
Joanna Tucker-Davis, Assistant Attorney General

APPROVAL OF AGENDA

It was moved and seconded (Davis/Newstetter) to approve the agenda. The motion passed unanimously.

APPROVAL OF MINUTES

It was moved and seconded (/Doane/Tappert) to approve the minutes of the November 8, 2011 Board Meeting. The motion passed unanimously.

EXECUTIVE SECRETARY'S REPORT

Committee Activities

Ms. Lopez reported that the Examinations and Qualifications (E&Q) Committee, External Relations Committee (ERC), Finance Committee (FC), Law Enforcement Committee (LEC), Professional Practices Committee (PPC), Rules and Regulations (R&R) Committee, and Standards of Land Surveying Practice (SOP) Committee each met during the interim. The Committee minutes were included in the packets.

Administrative Activities –

October 2011 Oregon Specific Examinations/NCEES

Ms. Lopez reported that the October 2011 Fundamentals of Engineering (FE), Fundamentals of Land Surveying (FLS), Professional Engineering (PE), and Professional Land Surveying (PLS) examination results were distributed, with the exception of Washington Structural III examination results. Currently, staff is preparing for the April 2011 examinations. Ms. Lopez also provided the Board with a copy of Oregon's Summary of October 2011 Exam Activities from NCEES. The summary listed 5 examination irregularities in Salem and 1 examination irregularity in Japan. Further information will be provided by NCEES for discussion during the next E&Q meeting in February. There was no further discussion.

Joint Compliance Committee (JCC) Meeting

Ms. Lopez reported that a JCC meeting was convened on November 30th at the Oregon State Board of Geologist Examiners (OSBGE) office in Salem. The meeting summary will be provided upon receipt from OSBGE.

2012 Central/Western Zone Meeting

Ms. Lopez announced that the 2012 Central/Western Zone Meeting has been scheduled. The Snow King Resort in Jackson Hole, WY will host this occasion from May 17th - 19th. President Linscheid will act as the Board's funded delegate and Ms. Newstetter and Mr. Seward expressed interest in attending. Mr. Davis encouraged new members on the Board to at least attend a NCEES meeting for a greater perspective and appreciation of the working structure of the examination, registration, and law enforcement processes.

Oregon Institute of Technology (OIT) Geomatics Club

Ms. Lopez informed members of the Board that Matt, Amanda, and Jen O'Neill are scheduled to represent the Board on February 28th to present information about OSBEELS, the examination process, and the registration process (the pathway to the land surveying profession).

2009-2011 Biennial Audit

Ms. Lopez scheduled the field work by Moss Adams, LLP of Eugene for the week of January 23rd. She also reported that Sandy Childress, CPA of CTC Associates assisted in preparing all adjustments needed to the OSBEELS financials for the biennium ended June 30, 2011 in preparation for the Board's audit.

Board Vacancies

Ms. Lopez noted that the Governor's Office has yet to fill 2 vacant positions on the Board. As a result of SB157 during the 2011 Legislative Session, President Linscheid volunteered to request that the American Society for Photogrammetry and Remote Sensing (ASPRS) endorse a registered professional photogrammetrist to take a seat on the OSBEELS Board by sending a letter to the Governor's Boards and Commissions Office.

Staffing

Ms. Lopez reported that the first round of interviews for one full-time Compliance Specialist position occurred on November 29th, December 5th, and 12th. Mr. Seward asked whether Staff's expectation is too high for this position. Ms. Lopez responded that training is a given for any of the positions at OSBEELS. She believes the difficulty in hiring for this position is the low

number of applications received for review and subsequent interview, if warranted.

Ms. Lopez also reported that Ms. Gilbert is currently on medical leave and is expected to return to work on February 1st. In the meantime, Board members should contact Ms. Lopez directly for various requests.

Legislative Concept (LC) 204

Ms. Lopez received a draft of LC 204 from the Administrator for the House Veterans Affairs Committee for the Board's review. The Board reviewed and discussed the concept that would add military training as a qualifier for entrance into the engineering and land surveying examinations. As a result, the Board determined, so long as the phrase, "substantially equivalent" remains in the language the Board will take a neutral position on LC 204.

Executive Session ORS 192.660 (2)(f)&(i)

President Linscheid updated the Board that Kathryn Logan, Senior Assistant Attorney General from the Labor & Employment Section of the Department of Justice was scheduled to provide the Board with written legal advice for discussion in regards to the request made by Ms. Lopez during the November Board meeting. However, AAG Logan had a family emergency that prevented her from attending the meeting. President Linscheid concluded that this discussion will take place during the March Board meeting as indicated in the November 8th Board meeting minutes.

Additionally, Mr. Seward reminded the members of the Board that Ms. Lopez's evaluation date was changed to July 1st of each year. As a result of revising the date for the evaluation of the Executive Secretary during the January 2011 Board meeting, Ms. Lopez was requested to provide a progress update of those goals during today's meeting. Mr. Seward further explained that 18 months have gone by since her last evaluation and anticipated an update on the goals identified by the Board.

Mr. Seward also recommended that the Board's Meeting Notice always contain reference to ORS 192.660(2)(i) for flexibility to enter into Executive Session to discuss personnel issues. This request was a result of the November 8, 2011 Board meeting where AAG Tucker-Davis advised the Board could not enter into Executive Session without giving prior public notice. Mr. Doane was uncomfortable with the idea. AAG Tucker-Davis further advised the Board that this statute is specifically for discussing the performance evaluation only and the employee could attend the Executive Session. She further explained that the Board's decision (good vs. bad idea) regarding Ms. Lopez's work schedule could not be discussed in Executive Session pursuant to this statute. In sum, the Board conducted the discussion regarding Ms. Lopez's work schedule appropriately during the November 8th meeting. There was no further discussion on this topic.

Ms. Lopez briefed the Board on the status of the 10 goals identified by the Board during the January 2011 meeting. During the review of these goals, it was recognized that some goals required additional support by members of the Board. The Board directed Ms. Lopez to keep the President up-to-date on the tasks which require Board members input. Ms. Lopez noted that she was still waiting for input from Board members for incorporation into the Board Member Manual. The Business Continuity Plan is still being developed. Mr. Seward inquired on the

status of reinstating wall certificates for interns and announcements of appointments to the Board in the Daily Journal of Commerce (DJC). Ms. Lopez responded that Ross Gale is the responsible staff member for these tasks and are noted. There was no further discussion.

PRESIDENT'S REPORT

President Linscheid affirmed the Board's Policy when communicating with the Board's assigned AAG and the procedure for requests of opinions. President Linscheid instructed members to copy Ms. Lopez on any correspondence to the AAG or seek Ms. Lopez's assistance prior to connecting with the AAG. He further explained that Ms. Lopez must approve requests from the Board and from any Committee for an opinion from the AAG. There was no further discussion.

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Mr. Davis reported that the Examinations and Qualifications Committee (EQC) met on December 9, 2011 to discuss the matters contained in the Committee minutes. Additional discussion was held regarding the following matters:

Registration

Comity Applications – Mr. Davis directed the members' attention to the list of 50 professional applicants for registration by comity. It was moved and seconded (Davis/Tappert) to approve the list of 50 professional applicants as presented. The motion passed unanimously.

1st Registration Applications – Mr. Davis directed the members' attention to the 8 applicants seeking 1st registration. It was moved and seconded (Davis/Tappert) to approve the 8 applicants as presented. The motion passed unanimously.

EXTERNAL RELATIONS COMMITTEE

Mr. Wahab reported that the External Relations Committee (ERC) met on December 9, 2011, to discuss the matters as contained in the Committee minutes. Additional discussion was held regarding the following matters:

Oregon Examiner Articles

Principles and Practice of Surveying Examination to Become Closed-Book - It was moved and seconded (Wahab/Newstetter) to approve the article as presented with a minor addition; include NCEES' purpose of moving to closed-book. The motion passed unanimously.

Law Enforcement Case, August 1-November 1, 2011- It was moved and seconded (Wahab/Doane) to approve the article as presented. The motion passed unanimously.

Professional Engineers Sealing Designs for Exempt Structures - It was moved and seconded (Wahab/Burger) to approve the article as presented. The motion passed unanimously.

Professional Testimony Constitutes the Practice of Engineering- It was moved and seconded (Wahab/Davis) to approve the article as presented. The motion passed unanimously.

The Standards of Land Surveying Practices Committee- It was moved and seconded (Wahab/Tappert) to approve the article as presented with a minor revision; removing Mark Mayer's name. The motion passed unanimously.

FINANCE COMMITTEE

Mr. Doane reported that the Finance Committee (FC) met on December 9, 2011, to discuss the matters as contained in the Committee minutes. Additional discussion was held regarding the following matters:

OSBEELS Travel & Expenditure Reimbursement Policy

Mr. Doane reiterated that members of the Board are prohibited from earning any awards while conducting Board business. Mr. Doane directed the members' attention to the Travel & Expenditure Reimbursements Policy. It was moved and seconded (Doane/Tappert) to approve the Policy as presented. The motion passed unanimously. Mr. Hoffine commenced a discussion regarding a process to discharge travel awards. AAG Tucker-Davis suggested that the Board review the Department of Administrative Services' (DAS) procedure for disclosing travel awards. As a result, the Finance Committee was tasked to conduct the review during their next meeting in February.

Review of Financial Reports

Members reviewed the Statement of Net Assets as of October 31, 2011. The Board observed that a reserve for administrative hearings, possible litigation, and development of a Business Continuity/Disaster Recovery plan should be explored. Mr. Tappert volunteered to review the Board's financials in order to provide a revised budget proposal with a plan to reduce renewal fees for review during the Finance Committee meeting in February. There was no further discussion.

LAW ENFORCEMENT COMMITTEE

Mr. Tappert reported that the Law Enforcement Committee (LEC) met on December 8, 2011, to discuss the matters as contained in the Committee minutes. Additional discussion was held regarding the following matters:

Informal Conferences

2733 – Mouhamad Zaher

Mr. Tappert reported the LEC held an informal conference with respondent Mouhamad Zaher to discuss a Notice of Intent to Void Examination Score, Suspend Admission to Future Examination, and Assess a \$1,000 civil penalty (NOI) for violating examination subversion rules under Oregon Revised Statute (ORS) 672.045(10), ORS 672.200(1),(4), and Oregon Administrative Rule (OAR) 820-020-0040(1)(e). Mr. Zaher was an April 2011 examinee whose examination results were withheld from release by the National Council of Examiners for Engineering and Surveying (NCEES) due to suspected exam irregularities. Accordingly, the Board investigated. Mr. Tappert explained that NCEES provided the Board two proctor reports both noting that Mr. Zaher was "looking around" during the examination. In addition, NCEES provided a statistical analysis that showed an unusually high correlation between his examination answers and his tablemate. Lastly, the LEC noted Mr. Zaher failed to show much of his work.

Mr. Tappert continued that the LEC evaluated several factors. First, the proctor reports stated Mr. Zaher was behaving suspiciously, but proctors were unable to subsequently catch him at cheating despite Mr. Zaher being seated in front of and only two tables away from the proctors. This arrangement worked in Mr. Zaher's favor. Second, the Board received only the output of the statistical model and was unable to look in the "black box." When the LEC discussed the model, the LEC found that the similarity of answers came from the coincident fact that Mr. Zaher and his tablemate were mistakenly given the same exam booklet version. Lastly, Mr. Zaher was convincing in his explanation that he was stressed and was looking around. Mr. Tappert concluded that the LEC believed there was not enough evidence to deny his results and therefore recommended withdrawing the NOI.

Mr. Seward asked about the statistical model. Mr. Tappert explained that the NCEES statistics showed a similar pattern of correct and incorrect responses between Mr. Zaher and his tablemate. However, both were mistakenly given the same exam booklet. As a result, there should be an expected statistical correlation between their answers. This outcome contrasts with the scenario where examinees not seated in proximity to each other are given different booklets, yet there is a correlation between answers. In that case, the exam subversion allegations might be sustained. Mr. Davis expected similar results from the same exam because they should have the same answers and miss the same most common wrong answers. He added Mr. Zaher would not have known they had the same exam booklets. A motion to approve withdrawing the NOI was moved and seconded (Tappert/Davis). The motion passed unanimously.

Upon discussion, LEC members stated the model was valuable, but without a developer present to answer specific questions about how it functions it left the LEC without an understanding of input variables. In this case, the model was not persuasive as evidence.

Mr. Hoffine commented that distributing the same exam booklet to adjacent examinees was a serious breach of security. Mr. Davis agreed noting that to sustain the allegations the LEC would have to assume that Mr. Zaher knew his tablemate had the same exam booklet, which seems impossible given the use of different versions. In addition, the investigation of Mr. Zaher's tablemate found he showed more work on his answer sheet. His case was closed as allegations unfounded. Mr. Burger pointed out that the model will work under different factors, such as when the examinees are not at the same table and are using different exam booklets. The statistical model will reveal patterns similar between examinees using different exam booklets. Mr. Wilkinson added that the model output appeared skewed due to the proximity of examinees using the same booklet. As a result, the LEC had no way to compare Mr. Zaher's results with other examinees. Mr. Seward concluded that this case highlights the value of the local board conducting the investigations rather than NCEES.

2703 – Chris T. Palmer

Mr. Tappert reported the LEC held a teleconference with respondent Chris Palmer, PLS, PE, CWRE, to discuss a Notice of Intent to assess a \$3,000 civil penalty (NOI) for failing to cooperate with the Board regarding an audit of his continuing professional development (CPD) activities in violation of ORS 672.200(4), OAR 820-010-0635(1),(5), OAR 820-015-0026(1), OAR 820-020-0015(7), and OAR 820-020-0025(1). Mr. Palmer was randomly requested to participate in an audit of documentation to support the claimed professional development hour

(PDH) units. In his response, Mr. Palmer stated he had not completed the required PDH units. Mr. Tappert informed the Board that Mr. Palmer was retiring from professional practices and had recently resigned as the Harney County Surveyor. The LEC was able to reach a settlement agreement with Mr. Palmer who agreed to retire his PLS and PE registration without reinstatement, including his CWRE certification, to a reduced civil penalty to \$1,000, and to close-out any outstanding projects within two months. A motion to approve the settlement agreement with Mr. Palmer was moved and seconded (Tappert/Davis). The motion passed unanimously.

2695 – Johann D. Swart

Mr. Tappert reported the LEC held a teleconference with respondent Johann D. Swart, PLS, CWRE, to discuss a Notice of Intent to assess a \$3,000 civil penalty (NOI) for failing to cooperate with the Board regarding an audit of his CPD activities in violation of ORS 672.200(4), OAR 820-010-0635(1),(5), OAR 820-020-0015(7), and OAR 820-020-0025(1). Mr. Swart was randomly requested to participate in an audit of documentation to support the claimed PDH units. He responded to the audit by stating he had requested “inactive” status since he had moved to the Bahamas where there was no opportunity to obtain PDH units and where he was not practicing. In response to investigator inquiries, Swart stated he signed the renewal form in error, but admitted to not providing CPD documentation.

Mr. Tappert observed that Mr. Swart lives in the Bahamas and claimed he was unable to obtain any continuing education despite having an on-line travel agency. Mr. Tappert noted that Mr. Swart admitted to the violations and agreed to retire his registration with a reduced civil penalty of \$1,000. However, Mr. Swart was adamant about not permanently retiring his registration. In light of his request, the LEC agreed to reinstatement. He will have a five-year window to return to active status dependent on his application and qualified CPD documentation. Mr. Hoffine commented that the LEC usually retires a registration without restatement and drops the civil penalty amount in return for settlement. Mr. Tappert emphasized in this instance Mr. Swart wanted the ability to return to active status, so the LEC lowered the civil penalty amount, but did not eliminate it, and agreed to reinstatement. Assistant Attorney General (AAG) Tucker-Davis added there is a grid of factors the LEC considered in making the decision, so the process is not straight forward. Mr. Tappert asserted that the level of cooperation with the Board is always a factor in reaching a settlement agreement. A motion to approve the settlement agreement with Mr. Swart was moved and seconded (Tappert/Davis). The motion passed unanimously.

2596 – Craig B. Anderson

Mr. Tappert reported the LEC held a teleconference with respondent Craig B. Anderson, PE, to discuss a Notice of Intent to assess a \$1,000 civil penalty (NOI) for unlicensed practice of engineering in violation of ORS 672.020(1) and ORS 672.045(1),(2). Prior to any Board discussion, however, Ms. Newstetter announced she had filed the complaint against Mr. Anderson and would recuse herself. Mr. Tappert then introduced the case by recounting that Mr. Anderson co-signed by using “PE, Senior Engineer Associate” a December 2007 proposal cover letter to develop a wastewater treatment facility for the City of Halfway, Oregon. When contract questions later arose, it was discovered that Mr. Anderson was not registered. Mr. Anderson responded to the allegations by noting his proposal statement that his Oregon comity application as “in process.” He was approved for professional practice on March 9, 2010.

Mr. Tappert conveyed that Mr. Anderson claimed there was over a year after the proposal was signed before he started his portion of the project. He apparently believed he had time to submit his application. Nevertheless, Mr. Anderson agreed to the violations and to settle the case with a \$500 civil penalty. Mr. Hoffine noted the long discussion with him. Mr. Tappert responded that Mr. Anderson initially applied in 2002, but had not completed the process. He neglected to do so. Mr. Wilkinson stated Mr. Anderson's application was essentially "in process" for 5-6 years. Mr. Davis added there was damage to the public by additional costs and delays to the project because of questions regarding work product. Mr. Hoffine quipped it was too low of a civil penalty. A motion to approve the settlement agreement with Mr. Anderson was moved and seconded (Tappert/Davis). The motion passed unanimously.

2614 – Daniel W. Baker

Mr. Tappert reported the LEC met in an informal conference with respondent Daniel W. Baker, PLS, to discuss a Notice of Intent to assess a \$2,000 civil penalty (NOI) for failing to file a map of survey within 45 days of setting monuments and to return a corrected map of survey within 30 days in violation of ORS 209.250(1), ORS 209.250(4)(b), and OAR 820-030-0060. Lane County Surveyor D. Michael Jackson, PLS, alleged that Mr. Baker set monuments for a partition plat and for a boundary survey without filing maps of survey. Mr. Baker did not dispute the allegations. The LEC recognized that Mr. Baker had some difficulties with signatures in one instance, but was nevertheless responsible for not filing his maps of survey as required. Mr. Tappert informed the Board that other surveyors had found Mr. Baker's unrecorded monuments, which created confusion. Mr. Baker agreed to \$500 civil penalties for both violations for a total of \$1,000. A motion to approve the settlement agreement with Mr. Baker was moved and seconded (Tappert/Newsetter). The motion passed unanimously.

2685 – Vuppuluri Dakshina Murty

Mr. Tappert reported the LEC met in an informal conference with respondent Vuppuluri Dakshina Murty, PE, to discuss a Notice of Intent to assess a \$2,000 civil penalty (NOI) for failure to maintain records, to submit the information when requested by the Board, and to cooperate with the audit in violation of OAR 820-010-0635(5) and OAR 820-020-0015(7)(8). Mr. Murty signed his renewal form certifying he had completed the required PDH units. In response to a second audit notice, Mr. Murty provided a CPD Organizational Form wherein he claimed 1,215 PDH units and asserted that as a full-time Professor of Mechanical Engineering at the University of Portland his teaching activities gave him enough PDH units for continuation of his PE registration. Once audit staff informed him that repetitive teaching of college courses as part of regular employment do not fulfill PDH units, Mr. Murty provided no further documentation, so a law enforcement case was initiated.

Mr. Tappert commented that it took a Board investigator about a year of working with Mr. Murty for his CPD documentation to come together. Once Mr. Murty submitted documentation, it was found compliant. Mr. Tappert continued that the LEC offered Mr. Murty a settlement by him acknowledging failure to cooperate and by payment of a \$500 civil penalty. Mr. Murty rejected the offer and requested a hearing. In response, the LEC left open for his reconsideration the settlement offer. About two weeks later, Mr. Murty called to accept the offer. However, Ms. Tucker-Davis clarified that Mr. Murty subsequently was emailed a copy of the settlement

agreement, but has not signed it; therefore, the Board cannot act on the agreement. Mr. McCart explained that Mr. Murty was out of the country, which he stated during the informal conference, but had agreed to the offer by return email. Upon further discussion, the Board agreed to accept the settlement agreement contingent on Mr. Murty signing and returning the agreement by the February LEC meeting. A motion to contingent approve the settlement agreement with Mr. Murty was moved and seconded (Tappert/Davis). The motion passed unanimously.

Committee Meeting:

2598 – Richard Hanford / Paul Sellke

Mr. Tappert reported the LEC discussed that complainant Paul Sellke, GE, alleged that respondent Richard Hanford, PE, was identified in a Statement of Qualifications (SOQ) as a Senior Geotechnical Engineer without registration as an Oregon geotechnical engineer. Mr. Sellke wrote that a SOQ was submitted to the Coos Bay-North Bend Water Board that listed Mr. Hanford as a “Senior Geotechnical Engineer” who was responsible for also preparing the Geotechnical Investigation Report. A Board investigator found that Mr. Hanford was based in California and was not involved in preparing the SOQ. He was unaware he was identified as a geotechnical engineer. At the same time, Mr. Hanford was an Oregon PE who was well qualified by education and experience to practice as a geotechnical engineer under OAR 820-020-0020(1). Mr. Tappert stated that if Mr. Hanford’s professional qualifications were being used in the SOQ, then he also has a responsibility to review the SOQ to ensure that any statements regarding his qualifications were correct. A motion to approve closing the case with a letter of concern was moved and seconded (Tappert/Doane). The motion passed unanimously.

2649 – Yong-Su Cho / OSBEELS

Mr. Tappert reported the LEC discussed that respondent Yong-su Cho, PE, is a South Korea resident who signed a renewal form certifying he completed the required PDH units. Mr. Cho was randomly requested to participate in an audit of documentation to support the PDH units he claimed as a condition of renewal. However, Mr. Cho did not respond to the audit until the second notice when the Board received a CPD Organizational Form claiming 60 PDH units. However, no supporting documentation was included. A letter was sent to Mr. Cho requesting documentation. However, nothing was received and his file was transferred to the Regulation Department for investigation. As a result, the LEC determined to issue Mr. Cho a NOI to suspend registration for 90 days and to assess a \$3,000 civil penalty for violation of ORS 672.200(4), OAR 820-010-0635(1),(5), OAR 820-015-0026(1), and OAR 820-020-0015(7),(8).

2650 – Yoon Hee Lee / OSBEELS

Mr. Tappert reported the LEC discussed that respondent Yoon Hee Lee, PE, is a South Korea resident who signed a renewal form certifying that he completed the required PDH units. Mr. Lee was randomly requested to participate in the audit of documentation to support the PDH units he claimed as a condition of renewal. However, Mr. Lee did not respond to the audit until after his file was transferred to the Regulation Department. When Mr. Lee responded to the investigator, he wrote that he had not received any of the audit letters until August 2010 due to problems with his address. Mr. Lee explained that his company KEPCO-E&C leases from the Korea Atomic Energy Research Institute (KAERI). KAERI also leases to several other companies at the same location and there was a mix-up with mail. Mr. Tappert continued that Mr. Lee eventually provided PDH records to show compliance with CPD requirements.

However, he was not receiving Board letters, which made it an address violation. Upon further consideration, the LEC determined that the issue was one of failure to maintain his address rather than failure to cooperate with the audit. A motion to approve closing the case with a letter of concern regarding updated address information was moved and seconded (Tappert/Davis). The motion passed unanimously.

2673 – In Ho Hong / OSBEELS

Mr. Tappert reported the LEC discussed that respondent In Ho Hong, PE, is a South Korea resident who signed a renewal form certifying he completed the required PDH units. Mr. Hong was randomly requested to participate in the audit of documentation to support the PDH units claimed as a condition of renewal. Mr. Hong failed to respond to audit letters. When contacted by email, Mr. Hong responded noting he had moved twice and provided updated contact information. However, Mr. Hong has not responded to letters sent to his updated address. The LEC determined to issue Mr. Hong a Notice of Intent to Suspend Registration for 90 days and assess a \$3,000 civil penalty for violation of ORS 672.200(4), OAR 820-010-0635(1),(5), OAR 820-015-0026(1), and OAR 820-020-0015(7),(8).

New Business:

Preliminary Evaluations: Jeffery J. Fogel, PE (WA) allegations against Roy H. Ruel

Mr. Tappert reported the LEC discussed that Jeffery J. Fogel, PE (WA), alleged Roy H. Ruel represented himself as a registered professional engineer when he was not. Mr. Fogel wrote that Mr. Ruel held himself out to be a professional engineer in a deposition about shooting range issues at the Kitsap Rifle and Revolver Club, Washington. In addition, Mr. Ruel's Web site showed his resume title of professional engineer. However, the evaluation found the Mr. Ruel has a Hawaii address with a "503" telephone number. In addition, Mr. Ruel referred to himself as a professional engineer, but he did not cite his lapsed Oregon registration. The LEC determined to not open a law enforcement case.

Preliminary Evaluation: Mike Massey allegations against Nathan Daniel Wayne Stark, PE

Mr. Tappert reported the LEC discussed that Mike Massey, Safety Coordinator for the Las Vegas Convention and Visitors Authority, contacted the Board regarding the digital signature of Nathan Daniel Wayne Stark, PE. Mr. Stark lives in Vancouver, WA, designs vendor exhibits, and prepared plans for a Honeywell exhibit at the Las Vegas Convention Center. Mr. Massey called to inquire if it was acceptable that the seal and signature looked as if it was cut-and-paste. Upon evaluation, it was found that Mr. Stark was confused about digital signatures. Mr. Stark resealed his designs that Mr. Massey subsequently approved. Furthermore, Mr. Stark wrote an apology to the Board and explained his understanding of digital signatures. The LEC determined to not open a law enforcement case. (*Digital signatures must meet the conditions of OAR 820-010-0620(5) and are not an acceptable on paper documents – for electronic media only.*)

Preliminary Evaluation: George Gillett allegations against Verle C. Moore, PLS

Mr. Tappert reported the LEC discussed that Becky Papke, Enforcement Officer for the Civil Enforcement Division, Department of Justice (DOJ), forwarded a Consumer Compliant Form regarding Moore Surveying Services (Moore). George Gillett wrote that his allegations were based on a Moore invoice to him, Moore collection notice and his response to dispute charges, series of deed documents, Moore letters to him, Moore response to the DOJ, and associated

documents. The evaluation found that the allegations dealt with business matters, such as billing disputes, which are outside the Board's jurisdiction. The LEC determined to not open a law enforcement case.

Preliminary Evaluation: Carl Tappert, PE, allegations against Tim Price

Mr. Tappert reported the LEC discussed that Carl Tappert, PE, CWRE, and OSBEELS Board member, alleged that Tim Price, City of Medford plumbing inspector, assumed the role of an engineer when he informed a construction contractor to replace a proposed grease interceptor with another model since the cited version did not exist. Mr. Tappert wrote that Mr. Price made no effort to contact either the project architect or the project engineer for clarification prior to providing direction. As a result, Mr. Tappert believed Mr. Price had engaged in the unlicensed practice of engineering. However, the evaluation found that no evidence was submitted to show that Mr. Price "applied special knowledge" of the engineering sciences to direct the contractor to use the replacement model. Since this type of direction is more common place than not, the LEC determined to refer an inspector making design changes to the Professional Practices Committee for further discussion.

Preliminary Evaluation: O'Leary allegations against Artisan Engineering, LLC

Mr. Tappert reported the LEC discussed that Molly O'Leary, a Boise, ID, attorney, alleged that Artisan Engineering, LLC, had failed to fulfill a contract regarding a study of an Idaho television broadcast tower that her clients operate in Boise County. It came to her attention that the tower may or may not meet the governing standard at the time of the Artisan 2002 study and Artisan was hired to review the structure. The evaluation found that Artisan had agreed to complete the study, but the work product had not been received, which makes it a contract matter outside the Board's jurisdiction. Furthermore, Ms. O'Leary submitted no evidence of negligence or incompetence. Lastly, the Idaho Board of Professional Engineers and Professional Land Surveyors is reviewing the matter. The LEC determined to not open a law enforcement case.

Preliminary Evaluation: Anonymous allegations against Lynn Peterson

Mr. Tappert reported the LEC discussed that an anonymous complainant alleged Lynn Peterson was representing herself as a professional engineer. Three instances were alleged, but no evidence was provided to document the charges. The evaluation found that in her press releases Ms. Peterson is properly reporting her Bachelor of Science degree in Civil and Environmental Engineering from University of Wisconsin, Madison and two Portland State University Master's degrees, one in Civil and Environmental Engineering and another in Urban and Regional Planning. When Ms. Peterson spoke to an investigator, she reported that she refers to her past work experience with the Wisconsin Department of Transportation as an engineer, which was her title at the time. The LEC determined to not open a law enforcement case.

Unfinished Business:

2605 – Daniel W. Baker / Ilah Pilaczynski

Mr. Tappert reported this is the same Mr. Baker as was discussed earlier. He added that Mr. Wilkinson informed the LEC that Scott Freshwaters, PLS, was retained as a professional reviewer for this case. The issue involves a deed gap with a misrepresentation of a fence location in a quiet title claim. His analysis should be ready for the February LEC meeting.

2630 – Jack Watson / OSBEELS

Mr. Tappert reported that Ms. Newstetter informed the LEC that she has gathered additional information regarding the Bureau of Land Management (BLM) dependent resurvey and subdivision of sections 7 and 8, Township 18 South, Range 28 East, W.M. In addition, she updated the Board on her efforts to gather deed information for the investigation. Otherwise, the investigation continues.

Settlement Agreements:

Mr. Tappert reported the LEC reviewed the list of Cases Subject to Collections (8), Cases Subject to Monitoring (12), and Case Status Report (95 open cases) and offered no comments.

PROFESSIONAL PRACTICES COMMITTEE

Ms. Newstetter reported that the Professional Practices Committee (PPC) met on December 9, 2011, to discuss the matters contained in the Committee minutes.

STANDARDS OF LAND SURVEYING PRACTICES COMMITTEE

Ms. Newstetter reported that the Standards of Land Surveying Practices Committee (SOP) met on December 9, 2011, to discuss the matters contained in the Committee minutes. Additional discussion was held regarding the following matter:

Committee Assignments

President Linscheid reported that Mark Mayer has relocated to another State. He also instructed staff to report in the SOP minutes “absent” rather than “excused absence” for the individuals who do not contact the Board office regarding their availability to attend the meetings. Ms. Newstetter reported that she had received a notable letter from James Hepler, PLS regarding the proposed narrative standards. She also informed the members of Mr. Hepler’s interest in participating as a member of the SOP Committee. It was moved and seconded (Newstetter/Hoffine) to replace Mark Mayer, PLS as a member of the SOP Committee with James Hepler, PLS. The motion passed unanimously.

RULES AND REGULATIONS COMMITTEE

Mr. Seward reported that the Rules and Regulations Committee (RRC) met on December 9, 2011, to discuss the matters contained in the Committee minutes. Additional discussion was held regarding the following matters:

OAR 820-010-0209 – Applications for Certification as a Water Right Examiner, OAR 820-010-0210 – Application for Enrollment as an Engineering (EI) and Land Surveying Inter (LSI), OAR 820-010-0212 – Applications for Registration as Professional Engineers (PE) Based on Examination, OAR 820-010-0213 – Applications for Registration as Professional Land Surveyors (PLS) Based on Examination, OAR 820-010-0214 – Applications for Registration as Professional Photogrammetrist (RPP) Based on Examination, OAR 820-010-0300 – Refunds and Charges, and OAR 820-010-0305 – Fees

Mr. Seward apprised the members that the modifications to these rules are merely housekeeping. It was moved and seconded (Seward/Tappert) to approve with the rulemaking process to amend the aforementioned rules as presented. The motion passed unanimously.

OAR 820-010-0442 – Application Deadlines

It was moved and seconded (Seward/Doane) to approve with the rulemaking process to amend OAR

820-010-0442 as presented. The motion passed unanimously.

OAR 820-010-0465 – Application for Readmission to Examination

It was moved and seconded (Seward/Newstetter) to approve with the rulemaking process to amend OAR 820-010-0465 as presented. The motion passed unanimously.

ADJOURN

The meeting was adjourned at 12:00 p.m.

NEXT MEETINGS

Next Board Meeting:

January 10, 2012

Next Committee Meetings:

LAW ENFORCEMENT:

Thursday, February 9th at 8:00 a.m.

Standards of Land Surveying Practices:

Thursday, February 9th at 12:00 p.m.

RULES & REGULATIONS:

Friday, February 10th at 8:00 a.m.

- DIGITAL SIGNATURES

Friday, February 10th at 9:00 a.m.

FINANCE:

Friday, February 10th at 11:00 a.m.

EXTERNAL RELATIONS:

Friday, February 10th at 11:30 a.m.

PROFESSIONAL PRACTICES:

Friday, February 10th at 1:00 p.m.

EXAMINATIONS & QUALIFICATIONS:

Friday, February 17th at 9:00 a.m.