



Oregon

State Board of Examiners for
Engineering & Land Surveying
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Minutes of Meeting
March 10, 2009

CALL TO ORDER

President Laszlo 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:

Susanna Laszlo
Edward Butts
Grant Davis
Ken Hoffine (excused absence at 12:00 p.m.)
Mari Kramer
Dan Linscheid
Susan Newstetter
John Seward
Carl Tappert (excused absence)
Amin Wahab

Visitors Present:

Gary Anderson, PLS, Professional Land Surveyors of Oregon Liaison
Matt Clark

Others Present:

Mari Lopez, OSBEELS Executive Secretary
Allen McCartt, OSBEELS Investigator
Katharine Lozano, Assistant Attorney General
Joanna Tucker-Davis, Assistant Attorney General (excused absence)

APPROVAL OF AGENDA

Mr. Linscheid requested to add Item D (request for an opinion regarding the right of entry) to the Law Enforcement Committee portion. It was moved and seconded (Butts/Wahab) to approve the agenda as amended. The motion passed unanimously.

APPROVAL OF MINUTES

Ms. Kramer requested a revision on page 2 under the Administrative Activities to modify the word "expended" to the word "exhausted." Mr. Davis requested clarification regarding the 2008 Reference Manual for Building Officials paragraph on page 14; the Reference Manual for Building Officials will be revised prior to the outcome of the 2009 Legislative Session. On behalf of AAG Tucker-Davis, President Laszlo requested a revision on page 5 concerning case 2464 Gordon Snyder to reflect the Board's decision to include the admission by Snyder to the two counts of using the title "Engineer" without being a registrant into the settlement offer. It was moved and seconded (Linscheid/Seward) to approve the minutes of the January 13, 2009

Board Meeting, as amended. The motion passed unanimously.

PUBLIC INPUT

President Laszlo welcomed the guests and requested them to introduce themselves. Gary Anderson, PLS, introduced himself as a representative from the Professional Land Surveyors of Oregon (PLSO). Mr. Anderson informed the Board that PLSO celebrated its 50th annual conference and thanked OSBEELS for its attendance. He shared several activities of PLSO. Ms Newstetter added by notifying the Board that an article was printed in the Daily Journal of Commerce announcing Mr. Anderson as PLSO's Surveyor of the Year; she distributed the article for review.

Matt Clark addressed the Board with concerns regarding his application for the April 2009 professional mechanical examination. He stated that the application contained an incorrect application fee. The Board was informed by Ms. Lopez that the ELSEES deadline is March 11th (tomorrow). Mr. Clark affirmed that he was prepared to pay the \$75.00 to continue the application and review process for the April 2009 exam administration. The Board determined that upon payment of the outstanding \$75.00, Mr. Clark's application be reviewed for the April 2009 exam administration with an understanding that the review might reveal a deficiency in the application resulting in a negative response for admission to the examination and forfeited fees pursuant to OAR 820-010-0300. He acknowledged the risk.

EXECUTIVE SECRETARY'S REPORT

Committee Activities

Ms. Lopez reported that the Examinations and Qualifications (E&Q), External Relations (ERC), Finance, Law Enforcement (LEC), Professional Practices (PPC), and Rules and Regulations (R&R) Committees each met during the month of February. Additionally, the E&Q Committee met for a second meeting by telephone on February 27th and the Committee minutes were included in the packets.

Administrative Activities

October 2008 Examinations

Ms. Lopez reported that staff received an extended deadline of March 11th to submit a completed list of approved candidates to ELSEES. The local examinations are scheduled to be held in Eugene on April 24-25, 2009 at the Lane County Fairgrounds. 23 examinees have been approved for the Oregon Land Surveying 4-hour Law Examination and 17 examinees have been approved for the Certified Water Right Examination. There were no applications received for the Forestry examination. She further informed the Board that Marv Pyles requested to meet with the E&Q Committee at its next meeting to discuss the future of the Forestry examination. The Certified Water Right Examination is scheduled to be held on April 10, 2009 in conference rooms 124A and 124B at the Water Resources Department.

Registration

Ms. Lopez reported that annual renewal activity for June is underway and courtesy reminders will be mailed in April.

2009 Board Presidents Assembly

Ms. Lopez reported that she and President Laszlo attended the 2009 Board Presidents Assembly

in Atlanta, Georgia in February. Ms. Lopez informed the Board that many states utilize the NCEES Law Enforcement Exchange system as a tool for reviewing applications. Using the system has assisted Boards in determining if the individual seeking registration has had prior disciplinary actions from other jurisdictions prior to granting registration in their state. Unfortunately, a number of individuals have been found to be untruthful in their application to these jurisdictions. Ms. Lopez stated that currently the Regulation Department utilizes the system to only post revocations and the Registration Department does not make use of the system. The system can be used to post practice issues and exam irregularities. It was noted by Mr. Linscheid that the system cannot be accessed by the public. The system requires a NCEES issued user ID and password. NCEES also requires the prospective user to obtain permission by the Board. It was the consensus of the Board to use the NCEES Law Enforcement Exchange system as part of the application review process. The Board referred the posting of its disciplinary actions to LEC for further review and discussion. AAG Lozano was directed to confirm that OSBEELS participation, in terms of disclosure of information about disciplinary actions, would not be contrary to Oregon law.

2009 Western Zone Meeting

Ms. Lopez reported that for various reasons, Ms. Newstetter and Mr. Seward will not be attending the 2009 Western Zone Meeting at the Banff Park Lodge, in Banff, Alberta, Canada. Mr. Linscheid will attend as the Board's Professional Land Surveyor representative.

NCEES 88th Annual Meeting

Ms. Lopez stated that the NCEES annual meeting takes place in Louisville, Kentucky in August; further information will follow soon.

SIBA

Ms. Lopez stated that the next meeting of the Semi-Independent Board Administrators meeting is scheduled for Tuesday, March 17th at the Message Therapists Board.

Furloughs and Salary Freezes

Ms. Lopez presented information regarding the Governor's plan of unpaid furloughs and salary freezes to increase the coffers in the General Fund. President Laszlo noted that OSBEELS' funds are not part of the General Fund. Therefore, OSBEELS would not benefit the General Fund by unpaid furloughs and salary freezes. Furthermore, it was noted that employees of OSBEELS, including the Executive Secretary's position, may earn a one-step increase in pay after the first 12 months of initial state employment and every 12 months thereafter. Typically, if the employee's work performance is satisfactory, they will receive a one-step increase each year until reaching the top of the salary range. The other reason would be due to COLA; no employees of OSBEELS are currently at the top salary range. OSBEELS budget is for 11.5 employees; it was noted that the Board office is currently operating with 6 full-time and 2 part-time employees (3 other key employees are currently on maternity leave). Mr. Butts supports not participating with the plan due to the current staffing situation. To address the salary freeze, Ms. Lopez was directed to acquire further information from the Department of Administrative Services (DAS) during lunch for further consideration in the afternoon.

OSBEELS' Legislation

Ms. Lopez reported that SB 142, 143, and 144 passed the Senate chambers on February 16, 2009. She provided a timeline handout of these Bills.

Other Legislation

Ms. Lopez reported that Representative Gelsler decided to not move forward with HB 2412. She further explained that a hearing on HB 2457 is scheduled for Friday, March 13th at 8:00 a.m. HB 2457 authorizes journeyman plumbers to design fire sprinkler systems (sponsored by the Committee on Business and Labor). President Laszlo, Mr. Butts, Mr. Linscheid, and Ms. Lopez will present testimony in opposition to the bill on behalf of the Board. Mr. Davis will send an email to the Committee on Business and Labor outlining his concerns regarding this bill.

Board Vacancies

Ms. Lopez briefly noted that the Board has yet to fill the engineer position that was vacated by George Gross. Dan Linscheid's re-appointment was announced; he will serve a four-year term (July 1, 2009 to June 30, 2013).

Staffing

Ms. Lopez stated that Amelia Volker is scheduled to return to work full time on April 1st.

As recommended by Jennifer Gilbert, Ms. Lopez hired Brianna Kincaid as the part-time receptionist. Ms. Kincaid has worked as a temporary employee assisting in various projects for the Board.

Ms. Lopez informed the Board that she will begin the recruitment for an additional full-time investigator in July.

PRESIDENT'S REPORT

President Laszlo reported that Ms. Lopez developed her Year 2009 goals. Ms. Lopez briefly summarized her plans for the year.

President Laszlo noted that the Board President's Assembly unfortunately occurs biannually, when the presiding President's term is ending. She stated that the Assembly would be more valuable to the following President of OSBEELS. She further informed the members of the Board of the engineering highlights of the Assembly. Additionally, the new Structural examination will be offered for the first time in April 2011.

President Laszlo informed the member that she spoke to Patti from the Nevada Board. As an active committee participant, Patti briefly updated her on the issues regarding the B+30. A draft white paper should be sent to Member Boards for further discussion at the Zone meetings.

President Laszlo noted that a topic of discussion during the Board President's Assembly meeting was regarding the branding and marketing of the National Council of Examiners for Engineering and Surveying (NCEES). She distributed a copy of the new logo of various colors to differentiate the services offered and tagline. It was noted that the tagline got the most discussion during the Assembly; *NCEES to license and serve engineers and surveyors*. It was quickly pointed out by

many of the States that NCEES does not license and the word “promote” was suggested as a better fit. Therefore, NCEES will revisit the tagline.

With technology advancing quickly, a presentation on the Building Information Modeling (BIM) was on the agenda for the engineer’s forum during the Board President’s Assembly meeting. The presenters stressed that careful consideration should take place when using this model. It appears that the more engineers rely on technology, the lesser engineering is being focused on. BIM is being heavily used by architects. However, the modeling is being considered as a living document and questions such as liabilities and stamping are still issues. Additionally, President Laszlo stated that OSBEELS should consider BIM as a tool and the outcomes should be certified by the user.

President Laszlo called on the nominating committee; Mr. Linscheid and Ms. Newstetter. Mr. Linscheid reported that Ed Butts and Grant Davis are nominated for the President position and Mari Kramer is nominated for the Vice-President position. Ms. Newstetter briefed the members of the Board on the process; voting for these positions would be public; not by secret ballots, a small presentation from the nominees, and other nominations can come from the floor. President Laszlo called for other nominations from the floor and none was received. After brief comments from the candidates, voting commenced. Incumbent for the President is Grant Davis and incumbent for the Vice-President is Mari Kramer. Congratulations!

EXAMINATIONS AND QUALIFICATIONS COMMITTEE

Mr. Butts reported that the Examinations and Qualifications Committee met on February 13 and 27, 2009 to discuss the matters contained in the Committee minutes. There was no further discussion.

However, additional discussion was held by the Board regarding the following matters:

Discipline Modification Request

The Board further discussed Mr. Stephens’ request. It was noted that he could practice in Naval Architecture and Marine engineering pursuant to OAR 820-020-0020. However, in order to be especially qualified in the discipline, Mr. Stephens would be required to examine and successfully pass the Naval Architecture and Marine engineering examination.

Official Transcript Deadline

AAG Lozano further explained that as long as the Board implements a deadline in rule that occurs beyond the four month requirement in ORS 670.020, the Board can purge the records accordingly. A formal memorandum will be presented to the R&R Committee in April.

October 2008 Irregularity Report from NCEES

After reviewing OSBEELS examination contract with ELSESES, AAG Lozano summarized her findings of following or rejecting NCEES recommendation to invalidate Won Young Kim’s exam results. Nothing in the contract with ELSESES appears to mandate OSBEELS to follow ELSESES’ and/or NCEES’ recommendations to invalidate exam results. Therefore, the decision to invalidate the candidate’s score is solely OSBEELS. After a lengthy discussion, it was moved and seconded (Davis/Hoffine) to invalidate Mr. Kim’s results as recommended by NCEES. The

motion passed, with one opposition (Seward).

The exam subversion rule will be presented to the R&R Committee for further discussion and review. Consideration will be given to separate the Oregon Specific rules on exam subversion from the NCEES/ELSEES rules on exam subversion.

Licensure

Comity Applications – Mr. Butts directed the members’ attention to the list of 75 professional engineer applicants for licensure by Comity. It was moved and seconded (Butts/Kramer) to approve the list of 75 professional engineer applicants as presented. The motion passed unanimously.

First Registration Applications – Mr. Butts directed the members’ attention to the 3 applicants seeking registration based on examination in another jurisdiction or by NCEES. It was moved and seconded (Butts/Wahab) to approve the 3 applicants as presented. The motion passed unanimously.

Applications by Prior Practice – Mr. Butts directed the members’ attention to the 3 applicants seeking Geotechnical registration by prior practice. It was moved and seconded (Butts/Kramer) to approve the 3 applicants as presented. The motion passed unanimously.

EXTERNAL RELATIONS COMMITTEE

Ms. Kramer reported that the External Relations Committee met on February 13, 2009, to discuss the matters as contained in the Committee minutes. There was no further discussion.

However, additional discussion was held by the Board regarding the following matters:

Winter 2009 Oregon Examiner

Ms. Kramer reported that the electronic version of the *Winter 2009 Oregon Examiner* was posted to the OSBEELS Web site. Ms. Lopez noted that the statistics for the structural examinations are not included in the edition due to the delay of receiving the results. The statistics will be printed in the next edition.

Spring 2009 Oregon Examiner

Ms. Newstetter distributed the *How to Avoid Two Common Land Surveying Violations?* article for the Board’s final review. Additionally, Mr. Linscheid and Ms. Newstetter volunteered to draft an upcoming article regarding removing monuments for the *Summer 2009 Oregon Examiner*.

The Board recommended staff to contact the technical societies for digital pictures rather than placing a request in the *Spring 2009 Oregon Examiner*. The digital pictures would be used on the new OSBEELS Web site rather than the default pictures from Oregon.gov.

Forms

Ms. Kramer directed the members’ attention to the *Request for Retirement* and *Renewal* forms for review and approval. It was moved and seconded (Kramer/Linscheid) to approve the forms as

presented. The motion passed unanimously.

FINANCE COMMITTEE

In the absence of Mr. Tappert, Ms. Newstetter reported that the Finance Committee met on February 13, 2009, to discuss the following matters:

2009-2011 Biennial Budget

Ms. Newstetter noted that the Committee was unable to project revenues and expenses due to an incomplete migration. Ms. Lopez updated the members on the progress and the obstacles of the migration. After a lengthy discussion, it was moved and seconded (Kramer/Newstetter) to begin the rulemaking process for OAR 820-010-0325. The motion passed unanimously.

To complete the migration by the next Committee meeting, the Board directed staff to locate a CPA to assist with the migration. Ms. Lopez will contact CTC and Associates in Salem.

LAW ENFORCEMENT COMMITTEE

Mr. Linscheid reported that the Law Enforcement Committee met on February 12 and 24, 2009, to discuss the following matters:

Informal Conferences

2460/2477 – Fred Shaub

Mr. Linscheid reported that the respondent Fred Shaub, PE, met with the Committee in an informal conference to discuss a Notice of Intent (NOI) to Assess a Civil Penalty of \$3,000 for Mr. Shaub failing to properly seal and sign final engineering documents. The Committee combined in the NOI law enforcement cases numbered 2460 and 2477 since both complaints involved specifications for the replacement of two HVAC systems for the Jackson County School Board, Medford School District 549C Invitation to Bid (ITB). Mr. Shaub explained that given the District's busy summer construction schedule he forgot to affix his seal and signature and expiration date to the plan sets. He also used his scanned signature to sign engineering documents. The Committee entered into a settlement agreement with Mr. Shaub wherein he admitted the violations and agreed to pay a \$750 civil penalty. It was moved and seconded (Linscheid/Davis) to authorize the Board President to sign the Shaub settlement agreement. The motion passed unanimously.

2470 – Cyrus Allen

Mr. Linscheid reported that the respondent Cyrus Allen, SE, met with the Committee in an informal conference to discuss a Notice of Intent to Assess a Civil Penalty of \$3,000 for Mr. Allen not being clear when he added five seismic bracing designs to mechanical engineering plans prepared by another engineer. The Committee learned of Mr. Allen's use of colored ink to make clear his additions to the plans, but the Committee found that when reprinted the colored ink did not clearly indicate the portion of the plans that Mr. Allen was responsible for preparing. Furthermore, his bracing schedule and seal were not clearly linked to the bracing designs. Mr. Allen provided the Committee a disclaimer that was found to not resolve the confusion. Regardless, the Committee recognized the efforts Mr. Allen made to indicate his additions and his receptivity to Committee concerns. The Committee determined to send Mr. Allen a letter of

concern. It was moved and seconded (Linscheid/Davis) to close the case with a letter of concern regarding compliance with OAR 820-010-0622. The motion passed unanimously.

2453 – Marcela Alcantar

Mr. Linscheid reported that the respondent Marcela Alcantar, EI, and her attorney Hafez Daraee met with the Committee in an informal conference to discuss a Notice of Intent to Assess a Civil Penalty of \$1,000 for Ms. Alcantar violating the “resident engineer” requirement. Ms. Alcantar failed to indicate an employed registrant when she submitted an application requesting certification to perform engineering services to the Oregon Office of Minority, Women, and Emerging Small Business (OMWESB) on October 28, 1999. The Committee found compliance met because Ms. Alcantar identified registrants on subsequent applications. The Committee also discussed other concerns that arose during the investigation. First, the original allegations were that Ms. Alcantar misrepresented herself in two news articles. The investigation revealed that the articles’ authors misrepresented her as a professional engineer, so the allegations were unfounded. Second, a Board investigator discovered unresolved allegations from July 2001 in that Ms. Alcantar was practicing engineering without a resident engineer. Ms. Alcantar had responded that Dave Luneke, PE, was a staff project engineer. Upon review, the Committee found that Ms. Alcantar had met compliance. Third, recent questions surfaced about whether Ms. Alcantar had a resident professional land surveyor. Ms. Alcantar offered the Committee the registration and payroll documents for Chris Yodder-Brown, PLS. The Committee found that the allegations were unfounded. Lastly, the Committee examined a Superpages.com advertisement and found that the listing was a free service that Ms. Alcantar did not authorize. The allegations were unfounded. The Committee determined that Ms. Alcantar had either met compliance or the allegations were unfounded. It was moved and seconded (Linscheid/Davis) to close the case with a letter of concern regarding compliance with OAR 820-010-0720. After discussing modifications to the proposed letter of concern, the motion passed unanimously.

Cases Reviewed

2438 – Travis Davis / Daniel Horton

Mr. Linscheid reported that the complainant Daniel Horton, Deschutes County Building Official, alleged that the respondent Travis Davis, PE, failed to make required modifications to engineering documents submitted for County review. Mr. Davis prepared single-family residence engineering documents that were placed on hold until questions were resolved regarding the foundation hold down anchors and sill plate J-bolts. The investigation revealed that the modifications were completed to the County’s satisfaction. Regardless, the engineering involved an exempt structure. It was moved and seconded (Linscheid/Wahab) to close the case as Board lacks jurisdiction and allegations unfounded. The motion passed unanimously.

2443 – Edward Wood / Paul Allen

Mr. Linscheid reported that the complainant Paul Allen, former Douglas County Building Official, alleged that the client of respondent Edward Wood, PE, had to hire another engineer in order to complete an engineering project. The Committee authorized issuing Mr. Wood a Notice of Intent to Revoke Registration on December 11, 2008. However, a Board investigator during preparation of the NOI found the original plans sealed and signed by Mr. Wood. The plans were examined by Committee member Grant Davis, SE, who identified five deficiencies. The

Committee reviewed the deficiencies and determined to issue Mr. Wood a revised Notice of Intent to Revoke Registration for negligence or incompetence in the practice of engineering. Staff drafted the NOI. However, Mr. Linscheid noted that the Committee did not discuss a civil penalty. For the record, it was determined that the NOI would be amended to include a \$5,000 civil penalty assessed to Mr. Wood.

2463 – Mark Ellingson / Robert Kruger

The respondent Mark Ellingson, PE, prepared beam calculations for the construction of an addition to the residence of complainant Robert Kruger. During construction, Mr. Kruger questioned the stability of the addition and asked the contractor to contact Mr. Ellingson. Mr. Ellingson evaluated the construction and prepared a letter outlining ten structural corrections. Mr. Ellingson later sealed and signed a letter that nine of the structural corrections had been completed. Eventually, the addition was demolished due to poor construction. Upon Committee review, it was found that Mr. Ellingson was hired to only prepare the beam calculations and was not involved in the design, construction, or permitting of the addition, which was an exempt structure. It was moved and seconded (Linscheid/Davis) to close the case as Board lacks jurisdiction and allegations unfounded. The motion passed unanimously.

2464 – Gordon Snyder / OSBEELS

Mr. Linscheid reported that the respondent's attorney Barry Smith met with the Committee in an informal conference on December 11, 2008, to discuss a Notice of Intent to Assess a Civil Penalty of \$3,000. The Committee found that respondent Gordon Snyder used the title of "RF Engineer" to sign two reports, one of which was engineering. The Snyder reports supported a T-Mobile permit application to the City of Springfield for constructing a telecommunications tower. Mr. Snyder was not registered with the Board. However, the Committee and Mr. Smith were unable to reach settlement during the informal conference. Subsequently, Mr. Smith proposed a counteroffer on January 9, 2009, which the Board reviewed and discussed on January 13, 2009. The Board observed that the offer did not include an admission of the violations and rejected the offer. The Board made Mr. Smith a counteroffer. On February 18, 2009, Mr. Smith rejected the counteroffer, paid the \$3,000 civil penalty, and accepted a default order from the Board. It was moved and seconded (Linscheid/Davis) to authorize the Board President to sign the Snyder Default Final Order. The motion passed unanimously.

2466 – Christopher Lidstone / OSBEELS

Mr. Linscheid reported that the complaint was a referral from Joint Compliance Committee (JCC), which is a cooperative effort of the Board and the Oregon State Board of Geologist Examiners (OSBGE) to investigate overlapping professional practices that involve law enforcement allegations. He observed that the respondent Christopher Lidstone, President of Colorado based Lidstone and Associates, was hired by Rogue Aggregate (RA) to review the permit application for Rock-N-Ready (RNR) to expand their source pit for gravel mining operations. Mr. Lidstone referred to his engineering concerns during public meetings, but it was found that Lidstone and Associates employs two Oregon registrants. Importantly, Mr. Lidstone presented only ongoing critical analyses of the publically available permit application information and models generated by the RNR engineering consultants. No original engineering work was performed. It was moved and seconded (Linscheid/Davis) to close the case as allegations unfounded. The motion passed unanimously.

2472 – Donald Porior / Ken Brinkerhoff

Mr. Linscheid reported that complainant Ken Brinkerhoff, Northridge Enterprises LLC, hired the respondent Donald Porior, PE, to design a retaining wall for a single family residence. The wall was designed and built. Mr. Porior then sealed and signed a certificate of completion for the local building department stating he had observed construction and it was done per design. He recommended approval in October 2005. The home was constructed, but the wall failed causing property damage in December 2005. Afterwards, Mr. Porior wrote Mr. Brinkerhoff stating that the wall had not been constructed to his design, that he had not observed construction, and that he should have not recommended approval. The investigation also found that Mr. Porior sealed engineering designs not done under his supervision. The Committee determined to issue Mr. Porior a Notice of Intent to Revoke Registration and Assess a \$7,000 Civil Penalty for negligence or incompetence and untruthfulness in the practice of engineering.

2476 – Bruce Goldson / Justy Papst

Mr. Linscheid reported that a field crew working under the employment of respondent Bruce Goldson, PLS, PE, failed to provide notice of right of entry when they entered property occupied by respondent Justy Papst to conduct a survey of the adjacent property. Staff issued Mr. Goldson a Notice of Intent to Assess a \$1,000 Civil Penalty for the right of entry violation. Mr. Goldson met with the Committee in an informal conference on October 10, 2008, and submitted evidence sought during the course of the investigation. The evidence was an email demonstrating that the developer of the property who hired Mr. Goldson had notified property owner Elsie Papst that a survey crew would be coming onto the property. Mr. Goldson also stated during the informal conference that he was the project manager and not the project surveyor. He denied supervision and control of the surveying. Staff suggested issuing Mr. Goldson a letter of concern regarding right of entry practices and supervision and control of surveying activities. However, some Board members expressed dissatisfaction with the letter of concern and would rather issue Mr. Goldson a NOI for failing to cooperate with the Board. After discussion, it was moved and seconded (Linscheid/Davis) to close the case with a letter of concern. The motion failed with Davis being the only yes vote. The Committee will discuss the matter further at the April meeting.

2478 – Doyle Gilliland / Amir Khazeni

Mr. Linscheid reported that the respondent Doyle R. Gilliland, PLS (delinquent), was hired by the complainant Amir Khazeni to stake two adjacent lots. Approximately a year after the lot was surveyed, Mr. Khazeni sold one lot and it was found that Mr. Gilliland had made a 19-foot mistake in staking a property corner. The investigation found that Mr. Gilliland had agreed to correct it by paying for a lot line adjustment, but he failed to file the paperwork. The Committee approved issuing a Notice of Intent to Assess a \$2,000 Civil Penalty. However, Mr. Gilliland has been unresponsive to investigator inquiries. Upon further consideration, the Committee directed staff to issue an Amended Notice of Intent to also revoke Mr. Gilliland's professional land surveying registration.

2479 – Daniel Landry / OSBEELS

Mr. Linscheid reported that the respondent Daniel Landry engaged in the unlicensed practice of engineering when he signed a report to the Oregon Department of Environmental Quality as

“Supervising Engineer.” Upon investigation, it was found that his Web site also identified him as a “Supervising Engineer.” When notified of the violations, Mr. Landry removed the designation from his Web site along with references to engineering. However, he sold his firm and the new firm reposted the references. The Committee directed staff to issue Mr. Landry a Notice of Intent to Assess a \$1,000 Civil Penalty and to open a law enforcement case against the new firm.

2493 – Baynard Mentrum / Shelly Duquette

Mr. Linscheid reported that this was a prior case where the Committee found the respondent Baynard Mentrum was a licensed architect who obliterated engineering seals on structural calculations, which he signed using his architect seal and then submitted for permitting review. The case was referred to the Oregon Board of Architect Examiners (OBAE) in February 2008 and was closed by OSBEELS pending action by another jurisdiction. The OBAE notified OSBEELS that they issued Mr. Mentrum a civil penalty and asked OSBEELS about standard drawings and calculations. The Committee found no evidence to support reopening the case. The OSBEELS Board reviewed a draft letter in response to the OBAE and offered no further comments.

2503 – Harold Rueb / OSBEELS

Mr. Linscheid reported that respondent Harold Rueb, SE, was randomly chosen to submit PDH documentation as part of an audit performed on December 17, 2007. Mr. Rueb had submitted a signed renewal form certifying that he had completed the required Professional Development hours (PDH), but was unable to submit verification. Instead, Mr. Rueb had retired and requested exempt status. The investigation revealed that as a non-resident engineer Mr. Rueb was subject to an outdated rule allowing him to comply with the PDH requirements of his resident state. Mr. Rueb responded with the proper information noting that California did not require PDH units during the audit period. It was moved and seconded (Linscheid/Davis) to close the case as allegations unfounded. The motion passed unanimously.

2504 – Tatsuo Kawase / OSBEELS

Mr. Linscheid reported that the respondent Tatsuo Kawase, PE, was randomly chosen to submit PDH documentation as part of an audit performed on December 17, 2007. Mr. Kawase submitted a signed renewal form certifying that he had completed the required Professional Development hours (PDH), but was unable to submit verification. Instead, Mr. Kawase stated he had made a mistake and requested exempt status. Upon contact, Mr. Kawase requested that the Board suspend his registration until he had completed the required PDH. A Notice of Intent to Suspend Registration (NOI) was issued. Mr. Kawase waived his right to a hearing and entered into a Settlement Agreement. The Committee held a special meeting by teleconference on February 24, 2009, and determined to recommend the signed settlement agreement. It was moved and seconded (Linscheid/Davis) to authorize the Board President to sign the Kawase Settlement Agreement. The motion passed unanimously.

2513 – Albert Duble / OSBEELS

Mr. Linscheid reported that the respondent Albert Duble, PE (retired), contacted the Board office about reactivating his professional engineer registration. During the discussion, Mr. Duble stated

he had practiced engineering while in retired status. Upon Committee review, Mr. Duple was issued a Notice of Intent to Assess a Civil Penalty of \$1,000 for the practice of engineering without registration. Mr. Duple responded by submitting a check in the amount to pay the civil penalty. However, Mr. Duple expected the payment to reinstate his registration. Board staff contacted Mr. Duple and explained that by paying the civil penalty he waived a hearing. Also, reinstatement was a separate issue. He accepted the terms. Continuing, Mr. Linscheid noted that the Committee could not make the decision regarding reinstatement.

President Laszlo took the Board into Executive Session as provided by ORS 192.660 (2)(f) and (2)(h) to consider information and records that are exempt by law from public inspection and to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Upon returning to open session, it was noted that no action was taken during Executive Session.

It was moved and seconded (Linscheid/Davis) to authorize the Board President to sign the Duple Default Final Order. The motion passed unanimously.

It was moved and seconded (Linscheid/Davis) to not approve reinstatement of his professional engineering registration. The motion passed unanimously.

2540 – Calvin Bontranger / OSBEELS

Mr. Linscheid reported that the respondent Calvin Bontranger is a construction contractor who used a handheld GPS unit to conduct an “unofficial survey.” An adjoining landowner later hired a PLS to complete a survey of his property. The PLS found on the common boundary a fence professionally built using the unofficial survey results provided by Mr. Bontranger. The fence was encroaching into his client’s property by 11 feet. Staff issued a Notice of Intent to Assess a Civil Penalty of \$2,000 for the practice of land surveying without registration. Since Mr. Bontranger did not respond to request a hearing, it was moved and seconded (Linscheid/Newstetter) to authorize the Board President to sign the Bontranger Default Final Order. The motion passed unanimously.

New Business

Investigator memorandum: preliminary evaluation of Gerald Kinman complaint

Mr. Linscheid reported that complainant Gerald Kinman alleged that Linley Richie, PLS, was hired to complete a boundary survey, but had not set monuments. The preliminary investigation showed that Mr. Richie was informed by his field crew that monuments had been set when they had not been set. Mr. Kinman would not allow Mr. Richie to return to the property to set the monument. The Committee determined that the allegations were unfounded and to not open a law enforcement case.

Investigator memorandum: preliminary evaluation of Wendy Hemmen complaint

Mr. Linscheid reported that complainant Wendy Hemmen alleged that Judy Haney violated the rules for final documents when Haney secured a set of permitted plans from the county to

complete as-built for a bonding company. The preliminary investigation found that Haney and her firm stepped away from the project when Ms. Hemmen complained. The Committee determined that the allegations were outside the Board's jurisdiction and unfounded and to not open a law enforcement case.

Request for Qualifications: Assistant Attorney General review of RFQ for professional reviewers
Mr. Linscheid reported that the Board's Request for Qualifications (RFQ) to solicit professional reviewers and expert witnesses was recently reviewed by an AAG to determine if there was any RFQ language that created an employer - employee relationship. The review showed the RFQ clearly stated that a reviewer is an independent contractor and need not be revised. However, the AAG suggested developing a separate Scope of Work for each reviewer to alleviate any confusion about directing reviewer activities. Staff also changed the legal sufficiency threshold to \$100,000 based on the AAG advice.

Investigator memorandum: preliminary evaluation of Margaret Lucas complaint
Mr. Linscheid reported that complainant Margaret Lucas alleged that Carl Damoude, PE, falsified documentation for a land use application. The preliminary investigation found that Mr. Damoude reported that the utility service for a single-family residence "will run generally alongside and be adjacent to the existing driveway," and "the proposed development will not adversely affect the flood carrying capacity of the floodplain." However, Mr. Damoude did not prepare the land use application. The Committee determined that the evidence was insufficient, it involved an exempt structure, and to not open a law enforcement case.

Unfinished business

Update on 2332 – Maurice Farr / Paul Allen

Mr. Linscheid reported that Mr. Wilkinson informed the Committee that respondent Maurice Farr, PE, PLS, has not submitted plans to the Douglas County Building Department for review since 2003 or to the City of Roseburg since 2007. However, Mr. Farr is practicing land surveying because he recently submitted maps of surveys for filing. Since the complaint involves his engineering activities, the Committee determined to issue Mr. Farr a letter of inquiry asking him to inform the Committee of the current status of his engineering work. The Committee will review his response as the basis to reach a recommendation on disposition of his law enforcement case.

Expert Witness Applicant

Mr. Linscheid reported that the Committee reviewed the Statement of Qualifications submitted by Eugene Trahern, SE, in response to the RFQ. Mr. Trahern met the requirements of the professional reviewer program. It was moved and seconded (Linscheid/Davis) to approve Eugene Trahern as a professional reviewer and expert witness. The motion passed unanimously.

The Board discussed the Cases Subject to Collections, Cases Subject to Monitoring, and Case Status and the following issues were raised:

In response to a Board inquiry regarding collections, Ms. Lopez explained that staff in the Regulation Department refer any unpaid civil penalties for collection to the Department of

Revenue (DOR). The DOR charges a percentage of the penalty to seek full payment on behalf of OSBEELS. At this point, the DOR has been successful to recover penalties in one case. Another case ready for DOR referral involves a \$3,000 civil penalty assessed against Marc Holcomb in case 2467.

In response to a Board inquiry regarding cases of violations of professional development hour (PDH) requirements, Mr. McCartt explained that PDH cases were “on hold” until certain issues were resolved. Since there are over twenty PDH cases, staff needed a model that could be used to process the remaining PDH cases. The models were case 2503 (Rueb) and case 2504 (Kawase). Given the closure of those two cases and the current queue on pending law enforcement cases, the PDH cases will be coming up soon.

Mr. Linscheid brought a final matter to the Board’s attention. The Professional Land Surveyors of Oregon (PLSO) has discussed door hangers. Door hangers were prepared as a means for land surveyors to provide right of entry notice as required by ORS 672.047. The Board has determined that the door hangers are in substantial compliance with ORS 672.047. However, the challenge facing land surveyors in rural areas are unoccupied lands with absentee owners. Mr. Linscheid asked the Board to consider whether or not sending letters to landowners met the notification requirements of ORS 672.047, which prohibits a land surveyor, or any employee or agent to enter property “*without first attempting to provide notice to the landowner or occupant in person. When the landowner or occupant is not available, written notice shall be posted in a conspicuous place where it is most likely to be seen.*” Board members noted that ORS 672.047(4) first requires notice in person and then a written notice can be posted. Nothing in the statute allows sending letters in lieu of ORS 672.047 requirements. After further discussion about providing guidance to rural area surveyors, the Board agreed to ask for an AAG review of the matter.

PROFESSIONAL PRACTICES COMMITTEE

Mr. Davis reported that the Professional Practices Committee met on February 13, 2009, to discuss the matters contained in the Committee minutes. There was no further discussion.

RULES AND REGULATIONS COMMITTEE

Mr. Linscheid reported that the Rules and Regulations Committee met on February 13, 2009, to discuss the matters contained in the Committee minutes. There was no further discussion.

However, additional discussion was held by the Board regarding the following matters:

OAR 820-010-0442 – Application Deadlines

Ms. Lopez noted that the difficulty for staff to inform applicants of their application status after review of applications in time for an applicant to meet the ELSESES deadline was a topic discussed during the Member Board Administrator forum at the Board President’s Assembly meeting. The ELSESES deadline and the Member Board deadlines are an issue throughout the states. Many other states have revised deadlines to accommodate the administration process. However, ELSESES deadlines vary with each exam administration, as well as the contracts entered with each state. The E&Q Committee was directed to revisit the ELSESES agreement at the next Committee meeting.

OAR 820-010-0230(3) – Information to be Furnished by Professional Engineer Applicants

Ms. Lopez brought to the attention of the Board that the recent changes to OAR 820-010-0230(3) may not resolve the issue. Staff noted that regardless of the title change, the content of the degree may not be sufficient for entrance to the PE examinations. Therefore, it was determined that if there is any uncertainty by the Registration Department, the application would be presented to the E&Q Committee for further review.

UNFINISHED BUSINESS

President Laszlo stated that Ms. Lopez emailed DAS during lunch for further information regarding furloughs and salary freezes. Ms. Lopez announced that DAS responded to her email advising to review the document titled Cost Reduction Frequently Asked Questions dated March 6, 2009. Ms. Lopez distributed the copies to the members for further review. The Board discussed the information contained in the FAQs at great length. It was moved and seconded (Butts/Davis) against adopting the cost reduction directives for furloughs and salary freezes. The motion passed, with opposition. Mr. Seward opposed the entire motion. Ms. Newstetter opposed against adopting the furloughs.

NEW BUSINESS

President Laszlo announced that she and Ms. Lopez were invited to the PEO Luncheon to give an update on OSBEELS on May 15th.

President Laszlo polled the members on whether to hold the May Board meeting at OSU. In 2008, the Board met at OSU in May. Mr. Davis agrees with the outreach; however he also commented that the Board should outreach to the other Colleges and Universities as well. Mr. Linscheid concurred. President Laszlo recommended that the External Relations Committee discuss a process.

Ms. Lopez informed the Board that SB 820 was just introduced to eliminate the Appraiser Board from ORS 182.454. She also noted that SB 832 was just introduced. Further information will be gathered for the Board's review.

ADJOURN

The meeting was adjourned at 1:37 p.m.

NEXT MEETINGS

Next Board Meeting:
May 12, 2009

Next Committee Meetings:

LAW ENFORCEMENT:	Thursday, April 9 th at 11:00 a.m.*
PROFESSIONAL PRACTICES:	Friday, April 10 th at 8:00 a.m.
RULES & REGULATIONS:	Friday, April 10 th at 9:00 a.m.

EXAMINATIONS & QUALIFICATIONS:

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

FINANCE:

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

EXTERNAL RELATIONS:

Friday, April 10th at 2:00 p.m.

* The 11:00 a.m. time on 4/9/2009 for the LEC is tentative. Depending on the schedule of informal conferences, the LEC may meet earlier or later in the afternoon.