



Oregon

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

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PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting

October 3, 2007

Members present:

Carl Tappert, Chair

Ron Stuntzner

Amin Wahab

Staff present:

Mari Lopez, Executive Secretary

Jenn Gilbert

JR Wilkinson

Others present:

Robert Horsefield

Brian King

Bob Neathamer (observer)

The meeting was called to order at 10:29 a.m. in the conference room of the OSBEELS office at 670 Hawthorne Avenue, SE, Suite 220, Salem, OR 97301.

GUEST DISCUSSION:

Out of State PEs – Robert Horsefield

As a follow-up to the discussion held at the August meeting, Robert Horsefield and Brian King were in attendance to discuss naval engineering. The Committee recommended that a comity application be submitted for individuals involved with the design of naval engineering projects in the State of Oregon. After reviewing the different discipline options offered in Oregon, Mr. Horsefield stated that the closest discipline would be mechanical. However, he also stated that naval architect engineers would not qualify in aspects of the engineering fundamentals encompassed within the mechanical discipline. The educational curriculum of naval architect and marine engineering touches upon many of the areas, but with more emphasis on ship theory; many of the topics are less emphasized than the curriculum would be for mechanical. In addition, naval architect and marine engineering requires special knowledge, training, and experience; all of which play a significant role due to its unique specialty.

Mr. Horsefield also presented the Committee with a petition to add the Naval Architecture and Marine Engineering discipline to the list of branches offered by the board. Mr. Stuntzner noted that the Oregon Board of Architect Examiners may have a concern with the title to include the word "architecture." Ms. Lopez informed the guests that the information submitted in the

petition may be insufficient for the Examinations and Qualifications Committee to determine the need for this discipline. Upon receipt of additional information, the matter will be referred to the Examinations and Qualifications Committee for consideration.

Due to the scheduled meeting regarding digital signatures at 11:00 a.m., the initial meeting was adjourned at 11:30 a.m. and reconvened at 1:04 p.m.

NEW BUSINESS:

County Surveyors – Darryl Anderson

The Committee discussed an email received from Darryl Anderson dated July 26, 2007, related to County Surveyors also in private practice. Mr. Anderson was interested if the board had released an opinion in the past on County Surveyors who are also in private practice and filing their own surveys. Since the board does not make opinions on business practices, there is not one to provide to Mr. Anderson. He is also concerned with the potential conflict of interest and inquired if a County Surveyor is required to have an independent review before filing. The conclusion of the Committee was that OAR 820-020-0030(3) would prohibit a County Surveyor from approving their own work before filing. However, clear guidance on who should review the work of the County Surveyor is not documented. The common practice discussed was to have the County Surveyor's work reviewed by another County or by the City Surveyor. It was also noted that this practice appears to be consistent with OAR 820-020-0030 and the intent of ORS 209.250. Staff was directed to respond accordingly.

Lind Letter – Ken Lind

Ken Lind submitted correspondence dated August 8, 2007, and requested immediate attention to the matter. This correspondence was presented to the board during its September 11, 2007, regular scheduled meeting. However, to avoid setting precedence with future inquiries, the board referred the matter to the Professional Practices Committee meeting, as the proper process. Mr. Lind is preparing a cadastral survey contract for the Wallowa-Whitman National Forest to re-subdivide two sections and mark the boundaries between private ownership and the Wallowa-Whitman National Forest in Baker County, Oregon. He states in his correspondence that the two sections were previously subdivided in 1958 under a Forest Service Contract. Then, in 1987 and 1988, the BLM Cadastral Survey group established a new corner monument and re-established another; thus changing the subdivision of the two sections. Through the contract, Mr. Lind is proposing a plan that would create six duplicate monuments and would like direction involving the obliteration of duplicate corner monuments and their accessories. The previous duplicate monuments no longer represent the points for which they were originally set. After an extensive discussion, the Committee concurred that ORS 209.150 contains required procedures to remove or obliterate existing monuments. Staff was directed to respond to Mr. Lind informing him that the proposal presented does not comply with statute. The Committee also noted that cutting off monument caps would likely create more confusion.

GIS Sworn Testimony – Dave Gordon

An email was received from Dave Gordon, Crook County Counsel, inquiring if unlicensed GIS personnel can provide expert testimony regarding GIS information if a disclaimer is made stating that the information regarding authoritative location or property boundaries cannot be provided.

The Committee discussed that acts constituting land surveying include more than identifying property boundaries. The information that a GIS technician would be asked to testify about would inevitably be rendering an opinion that would fall within the practice. Ms. Lopez informed the Committee that discussion was held at the 2007 NCEES Annual Meeting regarding the possible elimination of expert testimony from the definition of engineering and surveying from the Model Law. Due to this fact, the Committee felt that further research should be conducted prior to responding to Mr. Gordon. AAG Tucker-Davis was requested to conduct further research and provide additional information at the next meeting in December.

Interpretation of Professional Conduct Rules – Dave Van Dyke

Dave Van Dyke emailed the board regarding OAR 820-020-0035 – Obligation of Registrants to Avoid Improper Solicitation of Professional Employment. His concern relates to subsection 3, since he is interested in another professional engineer joining his company. Mr. Van Dyke presented several possibilities to compensate the additional engineer until the workload of the company is increased sufficiently to support the position. The Committee determined that the scenarios provided fall within the restriction of the rule. The Committee also discussed that the rule would also apply to a registrant who leaves one firm and joins another firm, transferring clients to the new firm and receiving a commission from the new firm for these clients. Staff was directed to respond informing Mr. Van Dyke that OAR 820-020-0035(3) does prohibit an engineer from receiving a commission on engineering work brought into the firm.

Unfinished Business:

2007 Reference Manual for Building Officials

Due to time constraints, the Committee did not discuss this matter. The topic will be included on the agenda for the December meeting.

Fire Protection Systems and Sprinkler Design

Due to time constraints, the Committee did not discuss this matter. The topic will be included on the agenda as an ongoing topic for the December meeting.

The second portion of the meeting adjourned at 1:50 p.m.