

Washington State Board of Registration for Professional Engineers & Land Surveyors

Board Meeting

April 06, 2023

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Board Meeting

Tab 1

Call to Order

- 1.1 Roll Call
- 1.2 Order of Agenda
- 1.3 Approval of February 23, 2023 Meeting Minutes
- 1.4 Public Comment Opportunity



STATE OF WASHINGTON
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Special Board Meeting Agenda

DATE & TIME: April 6, 2023

3:00 pm

LOCATION: BRPELS Office

605 11th Ave SE Suite 201
 Olympia, WA 98501

and

[WebEx Link](#)

Or

Tap to join from a mobile device

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ATTENTION: All meetings are open to the public except when business calls for a Closed Session. During Closed Session all guests will be excused. Start times are subject to change by the Board or Committee Chair.

OPEN SESSION

1. Call to Order

- 1.1. Roll Call
- 1.2. Order of Agenda
- 1.3. Approval of February 23, 2023 Meeting Minutes
- 1.4. Public Comment Opportunity

EXECUTIVE SESSION: The chair will announce the purpose and estimated duration for the Executive Session. No formal actions will be taken during the Executive Session. Once the Executive Session concludes, the Board will take a break to announce and invite visitors to the Open Session.

OPEN SESSION RECONVENES

2. New Business

- 2.1. Discuss Proposed Direction for Amendments to WAC 196-29

3. Adjourn Meeting



STATE OF WASHINGTON
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
BOARD MEETING MINUTES

DATE: February 23, 2023
TIME: 9:30 a.m.
LOCATION: The Heathman Lodge & WebEx
 Chief Comcomly Room
 7801 NE Greenwood Drive
 Vancouver, Washington

ATTENDANCE:

Board Members

Doug Hendrickson, PE, Chair
 Dave Peden, PE, SE, Vice Chair
 Aaron Blaisdell, PLS
 Nirmala Gnanapragasam, Ph.D, PE
 Ivan VanDeWege, PE
 James Wengler, PLS, CFedS

Staff Members

Paul Bitar, Senior Financial Consultant (WebEx)
 Ken Fuller, PE, Director
 Richard Larson, PLS, Deputy Director
 Mackenzie Wherrett, Executive Assistant
 Vonna Cramer, Licensing Lead
 Shanan Gillespie, Regulatory Program Manager
 Greg Schieferstein, Communication Manager
 Jill Short, Investigations & Compliance
 Manager

Guest(s)

Michael Harney
 Sharon Zimmerman (WebEx)
 Robert Wallis (WebEx)
 Thomas Barger (WebEx)

1. Call to Order at 9:32 am

1.1. Roll Call

Mr. Hendrickson took roll call.

1.2. Order of Agenda

A motion was made by Mr. Wengler, and seconded by Mr. Blaisdell, to accept the agenda as written. Motion carried.

1.3. Approval of 12/08/2022 & 12/16/2022 Meeting Minutes

A motion was made by Mr. Wengler, and seconded by Mr. VanDeWege, to accept the December 08, 2022 Meeting Minutes. Motion carried.

A motion was made by Mr. Blaisdell, and seconded by Mr. Peden, to accept the December 16, 2022 Meeting Minutes. Motion carried.

1.4. Public Comment Opportunity

Mr. Harney thanked the board for allowing him to attend the Special Board Meeting as a guest.

No additional comments provided.

Executive Session

Mr. Hendrickson, Board Chair, announced that the Board would go into closed session to evaluate the performance of the Director, discuss matters related to enforcement, and cases in current litigation. It was estimated Executive Session would last from 9:39 a.m. until 11:09 a.m.

Open Session Reconvened – 11:11 a.m.

2. Disciplinary Action

2.1. Case Deliberation

2018-07-0004-00ENG

Ms. Short provided the Case Manager's report for Case Manager, Mr. Daniel Clark.

A motion was made by Mr. Peden, and seconded by Mr. Wengler, to accept the Case Manager's recommendation for closure and that the complainant be provided a copy of the amended record of survey. Motion carried.

2019-01-0005-00ENG

Ms. Short provided the Case Manager's report for Case Manager, Mr. Clark.

A motion was made by Ms. Gnanapragasam and seconded by Mr. VanDeWege, to accept the Case Manager's recommendation for closure. Motion carried.

2021-01-0005-00ENG

Ms. Short provided the Case Manager's report for Case Manager, Mr. Clark.

A motion was made by Mr. Wengler and seconded by Mr. Blaisdell, to accept the Case Manager's recommendation for closure. Motion carried.

2019-08-0007-00ENG

Mr. Wengler recommended the case be closed and that the complainant be provided a copy of the new recorded survey.

A motion was made by Mr. VanDeWege and seconded by Mr. Blaisdell, to accept the Case Manager's recommendation for closure. Mr. Wengler abstained. Motion approved.

2022-07-1066-00LSV

Mr. Wengler recommended the case be closed and that the respondent receive a copy of WAC 196-27A with the closure letter.

A motion was made by Mr. Peden and seconded by Ms. Gnanapragasam, to accept the Case Manager's recommendation for closure. Mr. Wengler abstained. Motion approved.

2020-11-1678-00LSV

Mr. Blaisdell recommended that the case be closed.

A motion was made by Mr. Wengler and seconded by Mr. Peden, to accept the Case Manager's recommendation for closure. Mr. Blaisdell abstained. Motion approved.

2021-12-3201-00LSV

Mr. Blaisdell recommended that the case be closed.

A motion was made by Mr. Wengler and seconded by Ms. Gnanapragasam, to accept the Case Manager's recommendation for closure. Mr. Blaisdell abstained. Motion approved.

2022-10-1540-00ENG

Mr. VanDeWege recommended that the case be closed.

A motion was made by Mr. Blaisdell and seconded by Mr. Peden, to accept the Case Manager's recommendation for closure. Mr. VanDeWege abstained. Motion approved.

2.2. Disciplinary Report

Ms. Short provided a summary of the Disciplinary Report that was included in the [board packet](#).

3. Committee Reports

3.1. Executive Committee

Mr. Hendrickson delivered the committee's report.

- [02/22/23 Executive Committee Meeting Minutes](#)

A motion was made by Mr. Wengler, and seconded by Mr. Blaisdell, to accept the Executive Committee report. Motion carried.

3.2. Practice Committee (PC)

Mr. Peden delivered the committee's report.

- [02/22/23 Practice Committee Meeting Minutes](#)

A motion was made by Ms. Gnanapragasam, and seconded by Mr. Wengler, to accept the Practice Committee report.

Discussion:

Mr. Blaisdell asked what further action we may take against non-compliant respondents, in reference to Mr. Hawkins who is currently on compliance monitoring. Mr. Blaisdell suggested connecting with county prosecutor groups/meetings where the board could engage with them to discuss the gravity of unlicensed practice.

Motion to accept the Practice Committee Report approved.

3.3. Exam Qualifications Committee (EQC)

Ms. Gnanapragasam delivered the committee's report.

- [02/22/23 Exam Qualifications Committee Meeting Minutes](#)

A motion was made by Mr. VanDeWege, and seconded by Mr. Blaisdell, to accept the Exam Qualifications Committee report. Motion carried.

3.4. Survey Committee

Mr. Wengler delivered the committee's report.

- [02/22/23 Survey Committee Meeting Minutes](#)

Discussion:

Mr. Fuller asked if the board should consider a formal action approving the Professional Land Surveying state specific examination writing process. Mr. Wengler recommended that once the Survey Committee has concluded work with a psychometrician and developed additional exams

that the Exam Qualifications Committee review the process and make a recommendation to the board for approval.

4. New Business

- 4.1. Approval of Concise Explanatory Statement and Filing of CR103 for WAC 196-32 (from EQC)
A motion was made by Mr. VanDeWege and seconded by Mr. Wengler to approve the Concise Explanatory Statement and Filing of CR103 for WAC 196-32. Motion approved.
- 4.2. Approval of Concise Explanatory Statement and Filing of CR103 for WAC 196-26A & WAC 196-30 (from Executive Committee)
A motion was made by Mr. Hendrickson and seconded by Mr. Peden to approve the Concise Explanatory Statement and Filing of CR103 for WAC 196-26A & WAC 196-30. Motion approved.
- 4.3. Letter Regarding the Tunnel Concept Assessment/Interstate Bridge Replacement Project (from PC)
Mr. Fuller requested that the Board review the Tunnel Concept Assessment/Interstate Bridge Replacement Project to determine if per Washington State laws and rules, it should or should not be stamped. The Board discussed the assessment and directed Mr. Fuller to contact the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) and Interstate Bridge Replacement Project (IBR) for clarification of the document.
- 4.4. NCEES Funded and Board Funded Delegates for 2023 NCEES Annual Meeting
Mr. Fuller asked the board who would like to attend the August 15-18, 2023 NCEES Annual Meeting as funded delegates. The board directed Mr. Fuller to appoint Mr. Peden, Mr. Wengler, and Mr. Blaisdell as funded delegates.
- 4.5. Recommendation to Form Communication Task Force (From Executive Committee)
Mr. Hendrickson presented the Executive Committee's recommendation to form a Communication Task Force. Mr. Hendrickson assigned himself, Ms. Lund, Mr. Schieferstein, Mr. Larson, and an additional board staff member to the Communication Task Force.

5. Directors Report

- 5.1. Financial Report
Mr. Fuller provided an overview of the financial report produced by Mr. Bitar that was included in the [board packet](#). Mr. Bitar reported the agency is in excellent financial condition and stated the agency is projected to end the biennium with about \$1.71 million in its operating account and is on track to underspend appropriation this biennium by \$506,000. He reported last fiscal year, the agency generated \$3.199 million in revenue vs. just \$2.798 million during the same period last biennium. This represents an increase of about 14.3% between biennia.
- 5.2. Agency Operations
Mr. Fuller reported on agency operations and staffing. Mr. Blaisdell asked if there are any foreseen changes or maintenance to operational equipment. Mr. Fuller explained that there is no need for changes to operational equipment at this time, the equipment purchased in the last few years are top quality and have active warranties.

5.3. Program Reports

Board Staff provided summaries of the program reports included within the [board packet](#).

- 5.3.1. Communications & Outreach – Mr. Schieferstein
- 5.3.2. Regulatory – Ms. Gillespie
- 5.3.3. Investigation & Compliance – Mr. Larson
- 5.3.4. Licensing – Ms. Cramer
- 5.3.5. Admin – Ms. Wherrett
- 5.3.6. Directors Report – Mr. Larson

5.4. Other Items

5.4.1. FARB Forum Report

Ms. Gillespie and Ms. Cramer provided a report on the 2023 Federation of Associations of Regulatory Boards (FARB) Forum Report as provided within the [board packet](#).

6. Other Business

6.1. Additional Public Comment

Mr. Wallis provided comments regarding the Tunnel Concept Assessment/Interstate Bridge Replacement Project that was discussed during agenda item 4.3. Mr. Wallis stated that he had found the assessment on the IBR website under Technical Documents. Mr. Wallis commented that the Tunnel Concept Assessment was prepared for the purpose of clarifying questions by Engineers regarding technical matters.

Mr. Barger gave kudos to Board Staff, Executive Team, and Board Members for doing an excellent job. Mr. Barger stated that since 1994 he has attended board meetings and BRPELS is continuously getting better every year.

Mr. Barger commented that as a Professional Land Surveyor, he does not interpret the definition of the word 'Report' to be open or broad. Mr. Barger offered his opinion that if the document is prepared by a professional and the WAC requires stamp and signature, that the document be stamped and signed.

Mr. Barger commented that at the Land Surveyors Association of Washington (LSAW) Board of Director's Meeting they questioned the list of registrant's county residency. Mr. Barger asked if the board had considered adding legislative districts to the list.

6.2. Upcoming Outreach and Events

- 03/22/23 | St. Martin's University Presentation | Lacey | Mr. Fuller & Mr. Schieferstein
- 03/24/23 | WA State Specific Exams | Lacey & Spokane | Board Staff
- 04/17-21/23 | April Committee Meetings | Olympia & MS TEAMS
- 04/27/23 | April Special Board Meeting | Olympia & WebEx

6.3. Action Items from This Meeting

- Filing of CR103 for WAC 196-32
- Filing of CR103 for WAC 196-26A & WAC 196-30
- Mr. Fuller and Ms. Short to contact Island County to determine if they have moved forward with a case against Mr. Hawkins.
- Ms. Short to connect with county prosecutor groups/meetings where the board

could engage with them to discuss the gravity of unlicensed practice.

- Mr. Fuller to contact OSBEELS and IBR regarding the Tunnel Concept Assessment/Interstate Bridge Replacement Project to clarify the intent of the assessment and to provide more information to the Practice Committee within the next week.
- Ms. Cramer to provide licensing data trends for April Special Board Meeting.
- Mr. Schieferstein to add journal article informing applicants that the final pencil and paper SE exam is in October. Ms. Cramer to assist.
- Mr. Peden, Mr. Wengler, and Mr. Blaisdell to be named NCEES funded delegates for the 2023 NCEES Annual Meeting in August.

6.4. Agenda Items for Next Meeting.

- Assign a Nominating Committee

7. Adjourn Meeting

A motion was made by Mr. Blaisdell, and seconded by Mr. VanDeWege, to adjourn the meeting at 2:29 p.m. Motion approved.

Next Meeting: April 27, 2023 - Special Board Meeting - Olympia & WebEx

Respectfully submitted,

Ken Fuller, PE, Director

Board Meeting

Tab 2

New Business

- 2.1 Discuss Proposed Direction for Amendments to WAC 196-29



PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)
(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 19, 2022

TIME: 2:19 PM

WSR 23-01-109

Agency: Board of Registration for Professional Engineers and Land Surveyors

Subject of possible rule making: WAC 196-29 Professional practices

Statutes authorizing the agency to adopt rules on this subject: RCW 18.43.035

Reasons why rules on this subject may be needed and what they might accomplish: Amendments to WAC 196-29-110 are needed to remove the outdated reference to WAC 196-16, and to clarify existing language in sections 3 and 4.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: Department of Natural Resources (DNR). Board staff will work with DNR staff on any proposed language so that there is no conflicting language with WAC 332-130.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) Notice will be made to stakeholders and active licensees via the board's contact lists; and will be posted on our website and distributed through the board and board staff. Interested parties may contact the individual listed below and the public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

Name: Shanan Gillespie Address: PO Box 9025 Olympia WA 98507-9025 Phone: 360-664-1570 Fax: TTY: 711 Email: shanan.gillespie@brpels.wa.gov Web site: https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity Other:	(If necessary) Name: Address: Phone: Fax: TTY: Email: Web site: Other:
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Additional comments:

Date: December 19, 2022

Name: Ken Fuller

Title: Director

Signature:

**Chapter 196-29 WAC
PROFESSIONAL PRACTICES**

Last Update: 12/20/16

WAC

196-29-110 Land surveying practice standards.
196-29-200 Federal employee exemption.

WAC 196-29-110 Land surveying practice standards. Failure by any registrant to comply with the provisions of the Survey Recording Act, chapter 58.09 RCW and the survey standards, chapter 332-130 WAC shall be considered misconduct or malpractice as defined by RCW 18.43.105(10).

The following standards shall also apply:

(1) The monumentation, posting, and/or the marking of a boundary line between two existing corner monuments constitutes the "practice of land surveying" as defined in chapter 18.43 RCW and chapter 196-16 WAC, and consequently requires said work to be performed under the direct supervision of a registered professional land surveyor.

(2) The field survey work performed to accomplish the monumentation, posting, and marking of a boundary line between two existing corner monuments shall meet the minimum standards imposed by chapter 332-130 WAC.

(3) The monumentation, posting, and/or marking of a boundary line between two existing corner monuments involves a determination of the accuracy and validity of the existing monuments by the use of standard survey methods and professional judgment.

(4) The monumentation, posting, and marking of a boundary line between two existing corner monuments shall require the filing of a record of survey according to chapter 58.09 RCW unless both corners satisfy one or both of the following requirements:

(a) The corner(s) are shown as being established on a properly recorded or filed survey according to chapter 58.09 RCW and are accurately and correctly shown thereon.

(b) The corner(s) are described correctly, accurately, and properly on a land corner record according to chapter 58.09 RCW if their establishment was by a method not requiring the filing of a record of survey.

[Statutory Authority: RCW 18.43.035. WSR 17-01-137, § 196-29-110, filed 12/20/16, effective 1/20/17; WSR 06-22-038, § 196-29-110, filed 10/25/06, effective 11/25/06. Formerly WAC 196-24-110.]

WAC 196-29-200 Federal employee exemption. (1) Under RCW 18.43.130(6) the provisions of the act shall not be construed to prevent or affect the practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for the government of the United States; provided:

(a) That all work performed is for the exclusive use of the federal government; and

(b) That all work performed is wholly contained within the confines of lands held by the federal government (federal enclave).

(2) Any engineering work that is performed and/or constructed for the benefit of a private citizen or business entity, even if directly adjoining lands held by the federal government, must be performed by

or under the direct supervision of an engineer licensed in accordance with the requirements of chapter 18.43 RCW.

(3) Any surveying work that is performed for boundaries between lands held by the federal government and lands held by a private citizen or business entity, must be performed by or under the direct supervision of a land surveyor licensed in accordance with the requirements of chapter 18.43 RCW or under the authority of the Secretary of the Interior through special instructions approved by the Bureau of Land Management.

[Statutory Authority: RCW 18.43.035. WSR 10-01-199, § 196-29-200, filed 12/23/09, effective 1/23/10.]

Tab 3

Adjourn Meeting