

MEETING MINUTES

OREGON STATE BOARD OF GEOLOGIST EXAMINERS

September 18, 2009

Members Present

Richard Heinzkill, Public Member
Chris Humphrey, RG, CEG, Board Vice-Chair
Dr. Stephen Taylor, RG, Board Chair
Rodney Weick, RG, CEG
Mark Yinger, RG

Staff Present

Susanna Knight, Administrator

Members, Excused

Dr. Vicki McConnell, RG, State Geologist

Visitor Present

Bruce Scherzinger, RG [1:00 PM to 4:00 PM]

The meeting was preceded by an 8:30 AM Work Session convened in Conference Room A of The Association Center, Salem, Oregon. At 8:47AM, Chair *Taylor* announced the following:

Per ORS 192.660(1), the Board will now meet in executive session for the purpose of reviewing documents or records that are exempt by law from public inspection under ORS 192.660(2)(f).

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced.

No decision will be made in executive session. At the end of the executive session, the Board may meet in public session to make a decision under ORS 183.482(6).

At 10:20 AM, the Chair announced a five-minute restroom break and then continued with the Executive Session.

At 12:15 PM, the Board moved out of Executive Session.

Taylor announced that members should serve up lunch and then the Work Session would continue. During lunch, the Board Administrator presented a special certificate to Board Member *Humphrey* in appreciation for his lead on the Engineering Geology examination development with the Washington Board from January to June of 2009. The certificate sited *Humphrey's* work as follows: "for his leadership and dedication as a member of OSBGE in working on the 2009 Oregon-Washington Engineering Geology Task Analysis and Certification Exam". A round of applause followed.

Discussion of the Compliance Committee's review of CC#08-11-009 began. The concern is that an RG is the only person stamping a county inspection titled "geotechnical" for a "foundation sub grade inspection". Board members commented that the Compliance Committees summary notes that the county is in violation of the law. The county is not in violation but rather, it is promoting a violation of the state law by allowing stamping of an Engineering Geology work product by an RG. Members concurred that a document such as this should be stamped by a CEG or a PE.

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AT 1:07 PM, Chair *Taylor* called to order the public meeting of the Oregon State Board of Geologist Examiners.

1. Visitor and Board Introductions: *Taylor* noted one visitor and asked the Board to introduce themselves. The visitor was asked if he wished to address any specific agenda item but he indicated that he did not have a specific concern but rather was interested in the discussions of the Board.

2. Agenda: *Taylor* moved to approve the following additions to the agenda:

- 4.g. ASBOG National meeting information;
- 8.e. AC 09 09 210, Use of Seal on Electronic Documents;
- 10.c. ASBOG COE and National Meeting in Birmingham.

Seconded and passed: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.

3. Meeting Minutes: *Weick* moved to approve as presented both the March 5, 2009 quarterly Meeting Minutes and the June 12, 2009 quarterly Meeting Minutes. *Seconded and passe: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

4. Administrator Report

a. Summary of Staff Activities: Knight directed the Board to the Administrator Report AR 2009-03 advising the Board of activities since 6/12/2009 and made the following comments:

- ✓ staff is quite happy with the new location;
- ✓ under meeting dates listed with the Board Chair, update the third meeting to 9/17/2009;
- ✓ the SIBA group signed a contract with a lobbyist for purposes of keeping a pulse on the status of semi-independent legislation for 2009-11;
- ✓ proctors are needed for the ASBOG and OR-WA Engineering Geology examinations being administered on 10/3/2009. [Note: *Weick* volunteered for the EG exam proctor.];
- ✓ salary freezes for the biennium were incorporated into the budget; no furlough time was approved by the Board.

b. Final Budget Figures from 2007-09: Staff *Arrobang* joined the meeting to answer any questions about the budget spreadsheets presented in the meeting information. Knight noted that due to carryover dollars, the Board Chair authorized one Board representative at the ASBOG COE and annual meeting. The remaining carryover dollars will remain in the checking account while the Board monitors renewals figures over the next 3 months. Knight informed the Board that a financial audit of the 2007-09 Board finances will occur on October 19 & 20. Staff is busy preparing the requested documentation.

c. Report for Current Biennium: The finance report for the 2009-11 biennium is only for two months of the new biennium (which is 24 months long!). The summer months are the slowest renewal months so the net revenue for the first two months is -\$5955. The Board is carefully monitoring the Board finances.

d. Check log: *Yinger* moved to approve check #2995 to 3034 and check #9112 to 9114. *Seconded and passed: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

e. 3-Year Comparison of Changes in Monthly Renewals: The Board was reminded that prior to 2008, records could not be retrieved that would allow for a comparison of renewal notices issued versus notices renewed. Those figures have been logged by staff since January 2008. For the calendar year 2009, the non-renewal rate is approximately 4%.

f. Edward Jones CD Update: Knight distributed an additional statement for the 8/1/2009 to 8/28/2009 period received 9/8/2009 and reported an updated total account value of \$69,596.12.

g. ASBOG National Meeting: Knight distributed the officer ballot and the agenda for the 2009 ASBOG national meeting convening in November. Discussion about numerous ASBOG items occurred.

➤ **Status of the ASBOG Foundation:** The Board questioned if it in trouble during these economic times. Knight noted that the ASBOG Foundation is on the agenda under Membership Reports, Other Guest Organizations Reports. The Board noted that ASBOG funds established the foundation and were authorized by the Executive Council. *Weick* moved to deny additional funds to the ASBOG Foundation. *Seconded and passed: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

➤ **ASBOG Budget Increases:** *Humphrey* stated that he does not support any budget increase for ASBOG except increased costs of doing business over which ASBOG has no control. *Weick* moved to oppose any annual membership fee increase unless ASBOG first demonstrates that they have taken measures to reduce their costs. The Oregon Board delegate has discretion to vote in support of such an increase if justified. *Seconded.* In additional discussion, *Weick* offered that any fee increases must represent a good faith effort to reduce costs. *Passed: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

➤ **President's Pre-Meeting Dinner:** *Humphrey* expressed his dissatisfaction with the Friday night President's meeting format. As last year's delegate he previously reported this to OSBGE. During the President's Meeting, discussions occur about controversial agenda items and such discussion does not occur during the Saturday meeting. During the annual meeting of 2008, *Humphrey* continuously interjected into the discussion viewpoints of the Friday night pre-meeting discussions so that the meeting minutes would reflect the historical discussion. *Taylor* also shared his experiences regarding the pre-meeting event and noted that lobbying occurs in the pre-meeting discussion. *Humphrey* moved that ASBOG prepare minutes from the President's Dinner Meeting that convenes on Friday evening before the annual meeting. *Seconded.* The Chair asked *Humphrey* and *Knight* to craft the letter and he will give it a final review. The Board agreed that all members' signatures should be on the letter. *Passed: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.* *Weick* stated that it is imperative that ASBOG is transparent. If discussions and decisions occur at the President's meeting, it must be in the record.

The Chair announced a five-minute break at 2:15 PM.

6. Compliance Report: Heinzkill

a. Questions about Stamping Procedures: *Heinzkill* directed the Board to the September 8, 2009 MEMORANDUM where he outlined background information, input about stamping, OAR and ORS information and issues about which the Compliance Committee needs input. The following questions were discussed and suggestions were offered:

- *Is it acceptable for an RG supervisor to stamp the work of RG under his supervision?* The Board responded yes, if the RG intends to be responsible for the work.
- *Is it acceptable for an RG supervisor to stamp the work of GIT under his supervision?* This is what is expected of an RG. The RG is in responsible charge of the work product; the GIT has worked under the RG's supervision throughout the project.
- *What does the stamp declare?* The stamp declares the registrant who stamped the work is in responsible charge of the work.
- *Is it a valid excuse for someone to stamp any document, even if it is a supervisor, in order to expedite issuing a document?* The Board concurred that this is acceptable practice but that again, the registrant stamping the document takes responsibility for the information in the document.
- *Should the cover letter contain summary of geologic work?* If the cover letter contains a summary of geologic work it must be stamped. If it is just a letter of transmittal it does not need to be stamped.

- *Should a cover letter be stamped if contains summary of geologic work?* If it is an Executive Summary (containing findings), it should be stamped.
- *Should the Board issue a letter of concern to an RG for work that has been subsequently revised and sent to client?* No, a letter of concern should not be issues as this is common geology practice.
- *Does this, OAR 809-050-0000 USE OF SEAL, need to be revised?* No conclusion reached.
- *What is the proper way to stamp and sign? At end of document (minus appendices); sign through; signature nearby.* No conclusion reached.

b. Action on Compliance Cases:

- **CC#07-04-002:** *Heinzkill* moved that CC#07-04-002 be closed, complaint unfounded. *Seconded.* *Heinzkill* reported that the complainant questioned the quality of geologic maps prepared by a registrant. The Board concurred with the Technical Reviews which concluded that the work of the respondent meets the standard expected of a Registered Geologist. *Passed unanimously: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*
- **CC#08-04-008:** *Heinzkill* reported that this case remains under review and is not ready for Board action.
- **CC#08-11-009:** *Heinzkill* moved to close the case by issuing a LETTER OF CONCERN. *Seconded.* Board discussion occurred during the work session (see above) and concluded that a report for a county inspection titled “geotechnical” for a “foundation sub grade inspection” must be stamped by the CEG or PE responsible for the civil engineering work product. *Passed unanimously: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*
- **CC#09-03-010:** *Heinzkill* moved to close the case allegations unfounded. *Seconded.* The complaint accused a CEG of deceit, fraud, gross negligence, and misconduct. The Board concurred with the Technical Reviews which concluded that the work of the respondent meets the standard expected of a Certified Engineering Geologist. *Passed unanimously: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*
- **CC#09-04-013:** *Heinzkill* moved to close this case based on input received from Counsel and to thank the respondent for his cooperation. *Seconded.* The website for the company based in Portland includes the representation of an individual as an engineering geologist. The individual is not a registrant of the Board but the investigation confirmed that any engineering geology work prepared by the company is supervised by an Oregon Certified Engineering Geologist. *Passed unanimously: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*
- **CC#09-04-014:** *Heinzkill* moved to close the case based on input from Board Counsel. *Seconded.* *Heinzkill* noted that the principal of the company is a registrant and supervises all geology work; the website description of work responsibility for a non-registered employee of the company was revised. *Passed unanimously: Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*
- **CC#0905-015:** *Heinzkill* reported that this is a citizen complaint against a CEG for “unprofessional behavior, deceptive practices...and work not done up to State Board standards.” The information is under Technical Review. No recommendation at this time.

7. Committee Reports

a. Administrative Rules: *Weick* reported that three rules are under consideration, but only one rule received additional revisions and is now ready for Board action.

✓ *Weick* moved to accept OAR 809-055-0000, Complaint Process as presented. *Seconded.* During discussion, *Humphrey* requested that the following additional revisions to the draft rule be included in the minutes: 3) delete ‘will’ and change process to processes; 3a) delete ‘must’ and add an ‘s’ to maintain; 3e) remove the word ‘scheduled’; 4c) remove ‘scheduled’ and add ‘during a Board meeting’. Unanimously approved: *Heinzkill, yes; Humphrey, yes; Taylor, yes; Weick, yes; Yinger, yes.*

✓ *Weick* reported that additional review is needed on OAR 809-030-0020, QUALIFICATIONS FOR ENGINEERING GEOLOGY EXAMINATION; 809-030-0015, QUALIFICATIONS FOR GEOLOGIST PRACTICE EXAMINATION; and a new rule for SIGNATURE, OAR 809-050-0005.

b. Joint Compliance Committee: *Weick* reported that one case was referred to the JCC by the Board at the June meeting. No response has been received from OSBEELS and no meeting is scheduled at this time.

c. Legislative:

✓ **Immunity clause:** Knight inquired if the Board intends to go back to the Legislature in 2011 with a statute change regarding an immunity clause for volunteers serving the Board. *Taylor* indicated his frustration with the language development during this past session. He stated that the Board wants a simple approach to allow for some protection. He expressed dissatisfaction with the final language crafted with input from the Board's attorney and recommended that the final language must be kept simple. He referred the Board to samples presented in the Work Session packet and expressed support of the Physical Therapy Board model. The Board concurred that this is important legislation for the Geology Board and a statute change should again be sought during the next session.

✓ **Continuing Education:** Knight also inquired if the Board would seek authority in its statutes for continuing education. *Taylor* offered continuing education authority will not be sought in the 2011 Legislative session.

✓ **Semi-independent:** Knight reported that the SIBA group will again be monitoring any legislation affecting the semi-independent model of government.

✓ **Restructuring government:** The Governor has suggested consolidating government [See Correspondence AC 09 07 150]. The Board is aware of this consideration and is monitoring the process.

d. Outreach: *Taylor*

✓ Reported that contact has been made with the Teacher's Standards and Practices Committee and a point person is known. A presence has tentatively been scheduled for the March 2010 Work Session.

✓ Inquired about a "3rd party advertising" in the Board newsletter by adding something such as a COMMUNITY BULLETIN BOARD. Knight offered that this would be a policy question, as staff would have to understand what qualifies. *Taylor* offered that professional development meetings, classes, etc. There was mixed interest in such a bulletin board and members needed to understand its purpose. The group determined that this topic should be an Old Business discussion for the next meeting.

✓ Distributed information from the Oregon Geographic Information Council meeting where a member reported attending an OSBEELS meeting where OSBEELS is expressing issues with LIDAR data. The discussion offered that LIDAR is a surveying product. The Board concurred that OSBGE should weigh in on the LIDAR topic. *Weick* offered that air photos are useful, but LIDAR provides much more detail. He encouraged discussion with Engineers, Surveyors and Photogrammetrists. *Taylor* suggested that the Board invite a presenter to discuss the LIDAR issue.

e. Professional Practice: *Humphrey* reported the following:

✓ The letter to Tillamook County should be clear about geology requirements and include the Engineering Geology requirement. Staff can restructure the letter to the City of Brookings and issue it to Tillamook County.

✓ AEG President Mark Molanari has invited former Board Member Gary Peterson to serve on the committee reviewing the areas of overlap practice information.

f. Task Analysis, EG: *Humphrey* reported that the final report from COMIRA, the facilitator for the examination development, included the cut scores for the two new exams. *Humphrey* expressed concern that the high cut score [77 & 79] could be the result of “seasoned” participants weighing in on the difficulty of the question as the final step in the exam development. *Humphrey* asked staff to follow-up with both COMIRA and the Washington Board Administrator.

8. Correspondence

a. AC 09 07 150: Governor’s Letter on Government Restructuring: *Taylor* reported that consideration is being given to consolidating the Natural Resource Agencies. A legislative committee will be discussing this in a November committee meeting. The Board will have more information about this in December.

b. AC 09 07 161: The City of Brookings presented a letter of inquiry following receipt of the Board’s letter about additional questions concerning Codes.

c. AC 09 07 168: The Board’s response to the City of Brookings clarified who can prepare a geology report.

d. AC 09 07 174: Approach for Restructuring Plan: OSBGE is not currently considered in this particular restructuring group of Boards. The Administrator was directed to keep OSBGE apprised of this group’s discussions.

e. AC 09 09 210: Use of Seal on Electronic Documents: *Heinzkill* reported that the letter was in response to a Board inquiry about separating a geologic report from the stamping page.

9. Break / Visitor and Board Introductions

The Chair announced a five-minute break at 4:00PM.

The guest departed.

10. Old Business

a. Action List: Knight reported updates as follows:

- Posters will be delivered to OSU at the December 2009 Board meeting. Contact was also made with Southern Oregon University and they would like to have posters.

- *McConnell* advised staff that she would like to the one-page guideline for Marion County Map Standards to remain on the Action List.

- The Board again discussed GUIDELINES. *Humphrey* supported removing GUIDELINES from the web page. *Taylor* offered that GUIDELINES are often mentioned in compliance cases and people do read and reference them; he suggested that they need to be a future focus for several work sessions. *Heinzkill* suggested that the Board should have a discussion of “standards”. *Taylor* responded that the Board recently did that. [Note: See Work Session notes from June 2008 Board Meeting Minutes.]

b. Compliance Flow Chart: A few additional revisions were offered to the revised version of the Flow Chart. *Yinger* agreed to receive the revised document and finalize it in a flow chart format for the December Board Meeting.

c. Election of Officers: *Taylor* reminded the Board that his initial election was later than the first meeting after July 1 due to the then Chair moving out of state and not being eligible to serve. *Weick* moved that the current Chair *Taylor* and Vice Chair *Humphrey* remain in position through June of 2010. *Seconded.* Members were informed that the next elections will occur the first meeting after July 1 in 2010. *Passed:* *Heinzkill*, yes; *Humphrey*, yes; *Taylor*, yes; *Weick*, yes; *Yinger*, yes.

11. New Business

a. Revised RG Form for Verification of Experience: *Humphrey* stated that neither of these drafts (see b.) is ready to debate. He would ask members to review them at home. He wants to see

more information about an applicant's experience. Members were asked to provide comments back to Humphrey and a discussion can occur at the Work Session in December.

b. Revised CEG Form for Verification of Experience: See *Humphrey's* comments in a. above.

c. State of Washington, Geology Board Announcement: *Taylor* inquired if OSBGE was interested in entertaining a similar model to Washington where exams in WA, ID, and CA passed before ASBOG could be accepted. *Humphrey, Weick, and Yinger* all agreed to the concept. *Yinger* suggested that the Board could limit acceptance to the region. The Board concurred that both of these items should be discussed next meeting.

Weick departed at 5:12 PM.

12. Public Comment: No comment was entertained.

13. Announcements

a. Board examinations, Friday, October 2, 2009 at The Association Center. Board Members are asked to contact staff if available to proctor.

b. Next Board Meeting, Friday, December 4, 2009, Oregon State University. Staff directed to invite GeoScience faculty and students as well as students from the Water Resources Graduate Program. *Taylor* will do a luncheon PowerPoint program about regulation of geology similar to the one presented at UO last year.

c. ASBOG COE: The Board will be represented in Birmingham, Alabama at the COE and national ASBOG meeting by Board Member Mark Yinger. The event is scheduled for November 7- 9, 2009.

11. Adjournment: The meeting was adjourned at 5:15 PM.

Respectfully submitted,

Susanna R Knight
Administrator

<p>The minutes of the September 18, 2009 Board Meeting were approved as presented at the December 4, 2009 Board Meeting. Respectfully submitted, Susanna R. Knight Administrator</p>
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