

OREGON STATE BOARD OF GEOLOGIST EXAMINERS

WORK SESSION MINUTES

JUNE 7, 2012

THE ASSOCIATION CENTER, 707 13TH ST. SE, 1ST FLOOR, "OCAPA" CONF. ROOM, SALEM, OR

Members Present:

Mark Yinger, RG, Chair
Rodney Weick, RG, CEG, Vice Chair
Richard Heinzkill, Public Member
Todd Jarvis, PhD, RG, CEG
Vicki McConnell, PhD, RG, State Geologist (from 9:30 AM)
Peter Stroud, RG, CEG

Staff Present:

Christine Valentine, Administrator

Guests:

Kyle Martin, AAG, DOJ (as noted in minutes)

Chair Yinger called the meeting to session at 8:32 AM. He noted that no public participants were present and that Board Member McConnell would be arriving around 9:30 AM.

Opening Comments from Board Chair

Chair Yinger took a few minutes to go over meeting procedures and provided a handout addressing adaptation of Roberts Rules of Order for small group meetings. He also provided a handout summarizing the procedural steps that will be followed when a formal motion is on the floor. He then reminded Board members that any guests present at a meeting will be allowed to present public comment to the Board but that the Board does not engage in debate with guests. He further reminded all that individual members cannot represent the Board in such debates. The Board needs to review information, including public comment were applicable, and develop a position. In terms of meeting process, the Board can decide to hold all public comment for the designated time on the agenda or can accommodate guests by allowing them to provide comment prior to Board discussion on an agenda item of interest. The Chair must ultimately decide what approach will result in the least disruption to the flow of the meeting.

Chair Yinger asked if there were any comments on the work session agenda. The Board did not make any changes to the agenda but did agree to change procedures to have one sign-in sheet and one agenda for all future work sessions and meetings. Valentine said this change will be implemented for the September 2012 meeting.

Review of Compliance Cases

As noted in the work session packet, Valentine informed the Board that here are three (3) open compliance cases (**CC#10-04-013, CC#11-06-018, and CC#11-12-003**). She stated that all were up for discussion. For two cases, the Board has attorney-client confidential information to discuss. The Board's counsel will also be present to provide advice as may be requested by Board members on those two cases.

At 8:45 AM, Chair Yinger announced that the Board was entering Executive Session for the purpose of considering records or information exempt from disclosure by law, including written advice from the

Board's attorney, as authorized under ORS 192.660(2)(f) and for consultation with legal counsel as authorized under ORS 192.660(2)(h). For the record, Kyle Martin, AAG, DOJ joined the Board at 9:05 AM and remained throughout the Executive Session discussion of CC#11-06-018 and CC#11-12-003.

At 10:24 AM, Chair Yinger announced that the Executive Session was concluded and reconvened the Board in regular public session. The Board did not make any decisions in Executive Session; further action on the cases discussed during Executive Session (CC#11-06-018, and CC#11-12-003) was deferred to the afternoon meeting.

CC#10-04-013

Valentine and Heinzkill provided an update on the case. At the March 2012 quarterly meeting, the Board motioned for a settlement proposal to be prepared and sent to the respondent. This was completed, and the respondent accepted the offer. A final order and stipulated agreement was then drawn up to formalize the settlement agreement. The respondent signed and returned the final order in late May. The Board needs to take action on the final order and stipulated agreement. If the Board approves it, then the Board Chair will need to sign the order. The Board case then is, for all practical purposes, complete at that point. The Board will need to monitor to ensure the respondent meets the conditions of the order.

General Matters

Vice Chair Weick raised a general concern about having complaints brought to the Board about work that was done a long time ago. He wondered whether the Board should investigate these cases, asking is it worth the time and effort to pursue these if the allegations involve older work, e.g. 10 years prior. He asked if OSBGE has any statute of limitations that can be applied and inquired with the rest of the Board as to whether others share in his concern. Heinzkill thinks that all complaints must be addressed in some manner. He suggested that each complaint must be looked at on its own merits, for example the work addressed in the complaint may have started 10 years ago but could have continued since then. McConnell agreed that each case requires a judgment call as there is no statute of limitations for OSBGE. The Board briefly talked about possibly taking a different approach initially with such cases by inviting the parties in for discussion with the Board before spending significant resources on an investigation.

Chair Yinger called for a short break at approximately 10:30 AM. He reconvened the Board at 10:39 AM.

Administrative Rules Review

Valentine referred the Board to the rule hearing report and copies of public comments included in the work session packet for the **“Responsible Charge/Registration” rules**. She explained that the Board needed to consider the public comments and discuss possible final adoption of the rules. The Board's options are to adopt the rules as approved for rulemaking, adopt the rules with further revisions, or take no further action.

Board members discussed the public comments received and debated whether to make any changes to the rules. Chair Yinger noted that most of the comments received were in favor of the rule changes, with a few asking for clarifications but not presenting opposition to the rules. Issues addressed included but were not necessarily limited to the following: (1) how the rules distinguish between when a geologist is in responsible charge and can serve to supervise work experience of a registration candidate vs. responsible charge not related to supervision, (2) in relation to (1) whether the language in the supervision definition of “a situation” is needed for legal purposes, (3) how the Board's position may have evolved over the years as the meaning of responsible charge has been debated in the context of issues brought before the Board, (4) the 5 year window currently available to a registrant with a lapsed registration fee to pay late fees to keep the licenses from expiring, (5) possible clarification to the examination language in

the reinstatement rule to reference exams for specialty certification, i.e. CEG, and (6) the process of evaluating public comments. No rule changes were ultimately put forward as necessary to address the public comments. With respect to issue (5), the Board developed a rule clarification changing (4) of the reissuance rule to read “take or retake and pass the ASBOG fundamental and practice examinations, and specialty examinations, as applicable.” In relation to (6), the Board asked Valentine to check on whether anything beyond the meeting minutes is required for keeping a record of the Board’s response to comments.

Valentine provided handouts and updated the Board on the proposed “Compliance” rule, noting that she needs to more correctly refer to it as the **“Complaint Process” rule**. Valentine reminded the Board that this rule was discussed at the March 9, 2012 meeting and referred the Board to the documents e-mailed on June 1, 2012 and now also provided in hard copy. She explained that the documents did not make it into the work session packet as the Rules Advisory Committee (RAC) was unable to meet until May 31, 2012. The cover memo and attached rule language incorporates input from the RAC. Chair Yinger added that the one page summary is a very accurate description of the RAC’s input on the draft rule. For the sake of the Board’s two newest members, the Board talked about how the handling of complaints has evolved and the Board’s discussion on the topic at a past retreat. The intent of the proposed rule revisions is to bring the rule in line with current process. The Board discussed a variety of issues such as whether the rule should make any reference to the public member as coordinator, the history of the “sworn to” language, the language about the coordinator requesting to be recused, how the language was streamlined in response to RAC input, the long-standing expectation that the Administrator could extend the timeframe for a response due the Board, and whether to use the terminology complaints coordinator vs. compliance coordinator.

Valentine clarified for the Board where this rule writing effort is in the overall rulemaking process. The Board has developed draft language and consulted with the RAC. The Board has not yet obtained legal review or authorized issuance of rulemaking notice. The Board discussed that it could authorize the Administrator to move forward with the rulemaking notice if the legal review does not bring up substantive issues. The Chair would need to be consulted in determining if any changes recommended by DOJ were substantive.

Chair Yinger opened discussion on the next rule review item, and asked Valentine to update the Board. Valentine reminded the Board that it directed her at the March 9, 2012 meeting to work on revisions to the **“Misconduct” rule**. The primary purpose of the revisions is to better align the statute and Board rules with respect to registrant actions that can be subject to disciplinary action by the Board. The revisions address legal advice raised in conjunction with compliance reviews. The AAG was consulted in the development of this rule vs. waiting until later in the process considering the nature of the revisions. The Board discussed a variety of issues such as: whether language in subsection (2) should refer to only registered geologists or any geologist, if the term registered as used in the rule covered CEGs as well, and whether the language in the provision addressing fraud was sufficient. On this last point, Chair Yinger asked if this should say convicted of a felony. McConnell raised that it may need to say convicted of a felony related to practice of geology. She reminded the Board of legal advice stemming from a past compliance case that informed the Board it could not take disciplinary action in response to a felony unless that felony was related to the practice of geology. The Board determined the language needed to go back to the AAG for further review. The Board also decided that it would engage the RAC after the AAG input has been received.

Chair Yinger asked Valentine to address the last rules review item. Valentine explained why a technical adjustment is proposed for OAR 809-001-0005 regarding **Model Rules of Procedure**. The DOJ updated the Model Rules of Procedure effective late January 2012. The proposed technical change needs to be filed to ensure the Board is following the current rules. The model rules set forth procedures that ensure

agencies are complying with the Oregon Administrative Procedures Act (i.e., rulemaking, contested cases, declaratory rulings, etc.). This change of reference to the new edition meets the definition of a technical change, as has been confirmed by the Board's counsel, which means that rulemaking notice is not required. Valentine explained that the Board will need a motion directing her to file this technical adjustment.

At the conclusion of the rules review discussion (11:37 AM), Chair Yinger called for a break so that Board members and staff could grab lunch.

At 11:50 AM, Chair reconvened the Board to complete the work session.

Board Committee Assignments/Work Plans

Chair Yinger stated that he wanted to quickly revisit the committee assignments since not all members were present when the Board updated the committee rosters. He asked for feedback, and all members were comfortable with the current assignments as shown in the work session packet. The only change proposed was to change Compliance Coordinator to Complaint Coordinator in follow-up to the Board's discussion about the Complaint Rule. This change was viewed as a step that would help to limit confusion between the terms compliance and complaint.

Next Steps - Guidelines Project

Chair Yinger introduced the document in the work session packet and explained that former chair Taylor asked the Administrator to prepare this based upon review of meeting minutes. He also offered some comments on the history of the Board's discussion about the guidelines such as how the Board talked about whether to tackle standards of practice vs. guidelines and historically found it hard to tackle standards of practice. He then asked Valentine to comment on the document. Valentine reminded the Board that its intent was to move forward with an action plan but that discussion has not progressed far, largely due to inadequate time at recent meetings. The primary purposes of the document were to: (1) summarize issues the Board already decided upon so that discussion and debate of those issues did not need to be repeated and (2) address contracting options in a general way. The last part in the document is a list of key questions, at least from the Administrator's perspective, that are either unresolved or at least not well addressed in meeting minutes. The Board may find the document useful as a guide for today's discussion. Chair Yinger asked each member to speak to priorities for the guidelines and ideas about how to get this project moving.

McConnell addressed the history of the Board's discussion and how these guidelines are used, including how they are sometimes referenced in other documents. She believes the Board came around to deciding that these guidelines are the right materials to provide for registrants and others interested in the practice of geology. The guidelines provide best practice and could influence standards of practice. This was viewed as separate from figuring out who sets the standards of practice and how, such as through expert testimony. She also stressed that the guidelines are used by more than OSBGE registrants, e.g. local governments and consultants. In her view, this adds to the importance of updating the guidelines.

A question was asked about why the guidelines were removed from the Board's website. Valentine summarized the Board discussion at the December 2, 2011 meeting which led to a Board decision to pull the draft guidelines from the OSBGE website. McConnell offered that this increases the impetus to make a decision to move forward. She believes the Board has the money to work on updating the guidelines but that experience shows the Board needs outside help. Individual Board members, all volunteers, do not have sufficient time to take charge of the updates. Some guidelines need substantially editing, e.g. the engineering one reflects best practices from 20+ years ago. She also noted that if the Board spends the

time and money to update the guidelines, then the Board also needs to commit to keeping them up-to-date.

Chair Yinger asked for discussion about the guidelines vs. best practices, specifically whether these are the same. He also noted that in complaint reviews the Board is looking at minimum standards. Heinzkill stated that he also has a question about whether the guidelines are best practices and if so are best practices distinct from standards of practice. His view is that best practices are above and beyond the minimum requirements for Board registrants in the context of a complaint review. However, he referenced a 2008 memorandum from former Chair Taylor that refers to standards of practice with respect to the compliance process where Taylor discusses minimum levels of proficiency, guidance documents, and best practices as part of the evaluation process. Heinzkill offered several possible definitions for best practices. Even if not intended as standards of practice, he wonders if the guidelines will be used as de facto standards. He noted that past technical reviewers (TR) engaged by the Board have tried to use the guidelines as standards. He stressed that the Board will need to address the potential confusion about guidelines as best practices vs. minimum standards. The Board proceeded to discuss that the guidelines, in general, would likely not be equated to minimum standards of practice but that the answer to this question may depend on the guideline and what it covers.

Vice Chair Weick stated that he thinks the Board needs to get away from guidelines because outside folks do not understand the intent behind guidelines and so misuse or misapply them. People have a tendency to use guidelines as if they are rules. The Board previously determined that no state board has done written standards of practice. He thinks the Board needs to do fact sheets and gave some examples: what is a good report, what constitutes engineering geology vs. geology, what is good field practice, etc. He envisions each fact sheet being 1-2 pages. He believes these would be more useful to the general public. McConnell asked how the Board can have fact sheets without established guidelines in place first. Vice Chair Weick said he envisions the fact sheets addressing common questions the Board gets asked and Board expectations but not going in depth about the details of registrant practices. He thinks guidelines may suggest a one-size fits all approach which then results in an overkill approach to smaller projects. Heinzkill asked what the Board would tell TR about the fact sheets in terms of using them in the review of complaints. Vice Chair Weick stated that he was not envisioning the fact sheets as a resource for TRs. He commented on three forms of Board guidance: (1) fact sheets (most general), (2) management decision or interpretation, and (3) rules and law (most formal). McConnell noted that the Board won a Supreme Court case saying that standards do not need to be defined in rule. The Board discussed that a fact sheet would address expectations but not take the place of rule and thus could not be used like rule. If the Board develops something that goes beyond a fact sheet and interprets law or rule, then this would be in the form of (2), and it may be appropriate for a TR to use in a complaint review.

Heinzkill asked McConnell as the longest-tenured Board member, how often has the Board taken issue with work that was done by a registrant vs. how the registrant prepared a report. McConnell confirmed that there have been compliance cases where how a report was prepared was at issue. The Board has at times deemed a report substandard as part of reviewing a complaint. This suggests there are standards of practice governing report writing as well as how field work is performed.

McConnell offered that a logical next step might be to ask registrants if they use the guidelines and if so which ones and how. Chair Yinger stated that the Board could also ask whether something other than guidelines would be more helpful to registrants. The Board may also ultimately need to reach out to others that rely on the documents, such as local governments. The Board will have to determine how to address the needs of non-registrants for guidance from the Board.

Stroud commented that he agrees that outside folks are using the existing guidelines. He noted that the guidelines are sometimes even cited in construction contracts as mandatory for a project. This creates

problems considering the guidelines are out of date. There are other organizations that have more recent guidelines. Vice Chair Weick suggested that if there is a legitimate need for guidelines, then maybe the Board should look to existing guidelines developed by other organizations and refer to those as being supported by the Board. The Board discussed researching this topic to see if the Board could reach agreement on supporting other guidelines already in existence. The Board discussed assigning a committee to look at this option further and suggested that perhaps a graduate student could take on this type of project. Jarvis stated that he does see some opportunity for a graduate student to work on this particular research or possibly even other work needed by the Board in relation to moving beyond the old guidelines.

Chair Yinger asked the Board members how they felt the graduate student option might compare to hiring a consultant to work on the project. Jarvis noted that a graduate student project generally requires a one year schedule. He suggested an average cost of \$10,000 - \$20,000 for part-time student work for one year, with the cost towards the higher end if tuition is factored into the budget. This would be the estimate regardless of which higher education institute in Oregon was contacted. Stroud suggested the Board might be looking at around \$5,000 - \$10,000 per guideline for a consultant but noted that this really depends on the scope of work and especially how detailed the final product must be to meet Board specifications. The Board discussed that there are some challenges in trying to compare the options of student vs. consultant work and that each option has pros and cons.

Jarvis stated that he thinks the Board may get better return on investment by going with fact sheets or something that offers a higher level overview vs. just updating the existing guidelines. He mentioned how he has seen this in the academic world, with an increasing shift from research papers to white papers. Faculty is also engaging more students in the development process as this shift continues. He suggested a white paper for each guideline that links the reader to good sources of information and best practices that other organizations have developed and are willing to share.

Chair Yinger wrapped the discussion up by asking for input on how the Board should go about developing a proposal based on the day's discussion. McConnell suggested an internal call for proposals and reminded the Board of the need to also ultimately think about the contracting method that will be applicable. Chair Yinger and McConnell suggested that a committee be assigned the task of preparing a conceptual scope of work. The Board decided that the Professional Practices Committee would take this on. Vice Chair Weick said he would be happy to participate as needed. The Board also decided that the Committee would prepare questions for inclusion in the summer newsletter to solicit feedback about what would be most helpful to the industry.

Wrap Up/Adjourn Work Session

At 12:44 PM, Chair Yinger adjourned the work session.

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QUARTERLY MEETING MINUTES

JUNE 7, 2012

THE ASSOCIATION CENTER, 707 13TH ST. SE, 2ND FLOOR, CONFERENCE ROOM "A", SALEM, OR

Members Present:

Mark Yinger, RG, Chair
Rodney Weick, RG, CEG, Vice Chair
Richard Heinzkill, Public Member
Todd Jarvis, PhD, RG, CEG
Vicki McConnell, PhD, RG, State Geologist*
Peter Stroud, RG, CEG

Staff Present:

Christine Valentine, Administrator

Guests: (as noted in minutes)

Sean Bistoff, Capital Projects Manager, City of Portland
Steven Burger, PE, City of Portland

*Ex Officio Board Member, does not vote on motions.

At 12:44 PM immediately after adjourning the Board's work session, Chair Yinger opened the Quarterly Meeting. He noted that no guests were present at this time but that guests were expected to join the Board later in the afternoon due to their interest in correspondence to be discussed by the Board.

Agenda Review

Chair Yinger guided the Board through a review of the meeting agenda. The Board briefly discussed and determined that no changes were in order.

Minutes

Valentine reminded the Board that there are two documents to review and approve this meeting – minutes for the regularly scheduled March 9, 2012 quarterly meeting and minutes for the Board's special teleconference of April 19, 2012. Chair Yinger stated that he had one possible change to the minutes from March 9, 2012. On page 9, Compliance Report, CC#10-04-013, he asked about the language about the original complaint and whether it should be removed from the minutes. Heinzkill stated that this language is based on what the original complaint said, and he feels this should be stated formally in the minutes. Chair Yinger withdrew the proposed change. He then called for any other comments on the meeting minutes. Hearing none, he asked for a motion. *Stroud motioned to accept the March 9, 2012 and April 19, 2012 minutes as complete as proposed. Vice Chair Weick seconded the motion. Chair Yinger called for vote, and all approved.*

Administrator Report

Administrator Report

Valentine presented her report to the Board. She highlighted her work on Board policies, a need to formally adjust the 2011-2013 budget, feedback about online payment, and the proposed office move.

She mentioned that numerous policies are now ready for adoption by the Board and would be addressed in more detail under the Old Business agenda item. She stated her belief is that it is best to get updated policies in place ASAP and then work to fine tune as may be needed down the road. She explained also that by moving from policy be rule to stand alone policies more frequent review and updating of policies is facilitated. She also noted that she needs feedback on the draft Contracting/Procurement policy and suggested this as a “homework” assignment. She further explained that the records management and retention policy is proving more complicated than first anticipated and will not be presented until at least the September 2012 meeting.

Valentine explained that she is now certain that OSBGE will need to formally amend its budget – and thus the budget rule. Revenues are exceeding projections in two areas: OSLAB administrative fee was lower than actual in the budget approved, and renewals are stronger than predicted in the budget. At least some of this excess revenue (OSLAB fees) must be spent to cover increases in personnel expenses, as approved at the December 2011 Board meeting. She will obtain fiscal year end numbers by line item in July and from this prepare an updated budget. The Budget Committee will likely be convened – or at least asked to provide feedback – on the updated budget in August. The updated budget will then be presented to the Board at the September meeting. The next step will be to approve rulemaking notice for the budget rule.

Valentine next referred the Board to Attachment B – memorandum addressing registrant feedback about online payment. She distributed hard copies of the corrected memorandum, as an incomplete version went out in the meeting packet. Staff would like Board feedback about how or if to proceed. The Board discussed, and Chair Yinger conducted a quick poll of the members. Heinzkill was for proceeding, while all other members were neutral or in favor of postponing action. The Board’s direction was to table the move to online payment for now and to revisit if registrant demands for this option increase or if the Board otherwise sees a reason to implement,

Valentine asked the Board to turn to the draft lease included as an attachment to the report and reminded the Board that it approved her negotiation of the lease at the April 19, 2012 special teleconference meeting. The cost for the 1st floor suite has been negotiated down from the amounts shared at the April 19 meeting. She mentioned that OSLAB voted at its May 11, 2012 meeting to move forward with the proposed lease, subject to OSBGE also approving it. Valentine explained that she has also been talking with a person interested in subletting the smallest office in the suite. The landlord allows for subletting, and this would reduce costs without giving up flexibility to use that office for board business down the road. OSLAB has expressed support for a sublease if staff finds this to be workable. *Vice Chair Weick moved for the Board to approve the lease agreement as including in the quarterly meeting packet at the stated rental prices and authorize the administrator to pursue subletting of an office space. Stroud seconded the motion. Chair Yinger asked for comments. Vice Chair Weick commented that he likes the lease in terms of agreeable terms and better space for the Board office. Hearing no further comments, Chair Yinger called for a vote, and all approved.*

With respect to the rest of the report, she asked the Board members if they had any particular questions and comments on a page by page basis. She responded to a few questions and then moved on to financial and renewal updates.

Updated Revenue/Expense Report for Current Biennium

Valentine stated that revenues are strong, as mentioned in the budget update. Expenses are tracking close to projections for most line items. The Board has a very healthy reserve (i.e., enough to cover approximately 15 months of average expenses) and may want to monitor the reserve amount more closely. The Board might consider setting a goal for its reserve amount as it works on the 2013-2015

budget. There is no absolute rule of thumb with some organizations using a 6 month reserve and others using a 12 or 24 month reserve. The Board does need to consider that it cannot go to the Legislature for funding should an unforeseeable need arise and so must plan for this possibility.

Approve Check logs - Pioneer Trust and ADP

Chair Yinger asked if there were any questions about the log. McConnell asked for clarification about the ASBOG payment. Valentine explained there was an error in ASBOG's initial billing to states such that the old membership amount and not the increase approved for 2011 was charged. *Hearing that, McConnell moved to approve the debit and check log covering 2/27/12 - 5/11/12 and checks 3424 - 3457 and 9159 - 9164. Jarvis seconded the motion. Chair Yinger asked if there were any comments. Heinzkill pointed out that one amount is missing; see Check #3457. Valentine explained that the payment would have been similar to Check #3437 as this is a monthly assessment due to the Department of Administrative Services. She asked if the Board wants her to get the amount from the registration specialist. The Board declined that offer. Hearing no further discussion, Chair Yinger called for a vote, and all approved.*

3-Year Comparison of Changes in Monthly Renewals and Examinations

Valentine noted that renewals continue to be strong. The April and May renewal numbers continue to go up from what is reflected in the meeting packet. For example, as of June 6, 2012, April and May non-renewals are now down to about 10% and 17% respectively, and we expect them to continue to drop as late renewals come in. Overall, these renewals seem to be trending similar to past years. May is one of the biggest renewal months so is a good one to watch.

Update on Edward Jones Investments

Valentine noted that the Board has a CD that matures mid-June. She explained that Edward Jones has general investment directions from the Board, prepared by herself and former Chair Taylor. However, the investment advisor will look for explicit instructions from the Administrator before securing a new CD. Following process in new Investment Policy, the Board could motion to direct the Administrator to secure another CD or rely on the investment instructions previously provided. The Board previously deferred to Chair Taylor and the Administrator to put those updated investment instructions in place. Those instructions are based on returning to a plan to have a CD "ladder", with CDs maturing on an approximately every 6 month basis as the goal. The instructions were not formally approved by the Board, but former Chair Taylor kept the Board well informed of investment actions. We had to purchase some CDs with less than 18 month terms to get back on track. This was done by reinvesting funds sitting in the investment account and transferring funds from Pioneer Trust into new CDs last summer. The decisions going forward were then to work with the investment advisor to select the best deal on 18 month CDs. The Administrator informs the Chair when a CD matures and a new one must be secured. The proposed investment policy would direct that additional Board action is required only when funds are to be withdrawn or the investment plan to be changed.

Compliance Report

Heinzkill presented the compliance report, noting that his report was updated based upon late breaking information not available when the meeting packets were assembled.

CC#10-04-013

The complaint is that the RG is guilty of negligence because care, skill and diligence were not shown as RG has been billing client for unnecessary work in monitoring groundwater for several years. At the March 9, 2012 meeting, the Board approved pursuing a settlement agreement, which has been accepted, and now the Board needs to take action on the final order. *Heinzkill moved to approve the stipulated final order for CC#10-04-13 attached to the settlement agreement. Vice Chair Weick seconded the*

motion. Chair Yinger asked if there was any discussion. Hearing none, he called for a vote and all approved.

CC#11-06-018:

This case involves concerns about a CEG's site investigation report for a community college possibly being deficient and the work possibly involving engineering or otherwise not meeting standards. The CEG respondent recently fulfilled a request for additional information. The case requires continued investigation to obtain additional information and continued informal coordination with OSBEELS.

CC#11-12-003:

This case involves concerns about a CEG providing professional services outside of his specialty registration, training and qualifications in design and construction of roadway. The Board has heard from the CEG respondent. The case requires continued investigation to obtain additional information and further discussion at the Joint Compliance Committee (JCC).

Committee Reports

Administrative Rules

Chair Yinger noted that the Board had extensive discussion about various rules projects in the morning work session. Based on that discussion, several motions were proposed:

◆ Reissuance of Revoked Registration Rule

Vice Chair Weick moved to approve the Reissuance of Revoked Registration rule with an addition in (4), adding "and specialty examinations as applicable" at the end of the rule. Stroud seconded the motion. Chair Yinger asked for any discussion. Hearing none, he called for vote, and all approved.

◆ Registration/Responsible Charge Rules

Chair Yinger noted his understanding that the Board would approve the Responsible Charge/Registration rules as a package. *McConnell moved to adopt the amended rules referring to registration/responsible charge as presented in the June 7, 2012 work session document and listed on page 1 of 11 for Agenda Item 2. Stroud seconded the motion. Chair Yinger called for discussion. Hearing none, he called for a vote, and all approved.*

◆ Technical Change – Model Rules

McConnell moved to approve the administrative update of Model Rules of Procedure, changing the date of January 2004 to February 2012. Vice Chair Weick seconded the motion. Chair Yinger called for discussion. Hearing none, he called for a vote, and all approved.

◆ Complaint Process

Stroud moved for the Complaint Process rule to be revised to say Complaint Coordinator and for DOJ review to be obtained by the Administrator. He further stipulated that if there are no substantive changes recommended by DOJ as determined by the Administrator in consultation with the Board Chair, then the Administrator is authorized to proceed with rulemaking notice. Jarvis seconded the motion. Chair Yinger called for discussion. Hearing none, he called for a vote, and all approved.

Chair Yinger closed the committee report discussion.

Joint Compliance Committee (JCC)

Vice Chair Weick noted that the JCC has not met in some time. He noted that the Board discussed two compliance cases involving the JCC in the work session. He further noted that for one of those cases the Board is waiting for the OSBEELS process to move forward before the JCC reconvenes to develop

recommendations. Valentine noted that the JCC summer meeting date is likely to be moved due to changes in the OSBEELs process for the case.

Legislative

McConnell summarized the status of the Board's legislative concept (LC) for the 2013 session. Valentine offered supporting comments. The LC paperwork went in on time, and we are awaiting DAS and Governor's Office review. We need their approval of the LC before taking any next steps. The Board office has not yet received feedback, which may indicate no concerns or be only a reflection of review pending. She mentioned July 13 as the next key deadline. At this point, LCs go to Legislative Counsel for drafting.

Outreach

Jarvis noted how he worked with former Chair Steve Taylor at Western Oregon University (WOU) to sponsor the president of AEEG for a "brownbag" lunch discussion with students and faculty. He referred the Board to the flyer in the meeting packet. He will look for opportunities to sponsor more events like the brownbag in the future. He explained that the idea was to try to drum up more interest in registration. He noted a challenge with registration is that the names of courses are changing such that some do not have classic course titles. The Board may need to ultimately evolve registration to reflect the changing face of geology and geosciences programs. Students interested in registration may start to send in requests for other courses to be approved by the Board. For example, there are some geography courses that may involve substantial learning on geology while other environmental studies courses may still not fit due to limited geology content. He would like to talk about this more when the Board gets to the newsletter discussion. He has a draft article to discuss that poses the question of whether there is a need to look at this broader shift in geology and geosciences.

Professional Practice

McConnell stated that there is nothing to report this quarter for this committee.

Chair Yinger called for a break at 2:20 PM. He reconvened the Board at 2:28 PM.

Correspondence

AC 12 03 006/AC 12 04 010: Work Experience Assessment

Chair Yinger noted that the Board had been joined by two guests, Mr. Sean Bistoff and Mr. Steven Burger, PE. Both are employees of the city of Portland Bureau of Environmental Services. Chair Yinger explained that public comment is scheduled for later in the meeting but that the Board is in agreement that the guests could comment now. He shared that the Board was just about to discuss the correspondence item listed on the agenda and of interest to them. He then offered the guests the floor.

Mr. Bistoff thanked the Board members for the opportunity to talk with them. He referred to the correspondence in question and stated that he appreciates the Board's understanding about his misunderstanding about the meaning of responsible charge. He stated his regrets for any confusion caused. He then explained that he has a friend who was certified by the Board to sit for both ASBOG exams with just work experience under an engineer. This is largely why he thought he could use work experience under the supervision of an engineer. He confirmed that he has never used the title geologist or done work that would require a geologist stamp. He has worked with other registered geologists, including consultants. Much of his work has been in the context of project management, and this has required him to at times use his geology education to assist with his job. Part of what he was looking for in submitting his application was to find out if he had experience that would be approved by OSBGE. Steven Burger, PE, introduced himself and stated that he was present to support Mr. Bistoff and verify that his role in projects has not involved professional practice as a geologist. He mentioned that the city's

lead engineer, Bill Ryan, wants to help Mr. Bistoff in his career path. Also, Mr. Ryan noticed that the Board letter raised questions about city engineers being sure that they do not cross into geology in the work done for the city. He offered that the Bureau is very concerned about recognizing professional practice and is continually learning about professional overlap questions. This concluded the statements by Mr. Bistoff and Mr. Burger, PE.

Chair Yinger moved the Board into discussion of the correspondence in question. He noted that there would not be debate with the guests, and opened the floor to Board members that might have questions for the visitors. Jarvis asked for explanation of the relationship between the two visitors. Mr. Burger, PE, addressed this explaining that he is not Mr. Bistoff's supervisor and that both are supervised by Bill Ryan, PE. McConnell asked for clarification about whether Bistoff has taken the fundamentals exam or just applied to take it. Mr. Bistoff explained that he applied to take both in March 2013. Stroud asked about Mr. Burger's role with OSBEELS. He responded that he has been a member of OSBEELS for about one year. Vice Chair Weick suggested that Mr. Burger might consider coming to a future JCC meeting.

Chair Yinger asked Valentine to summarize how the Board ended up at issuance of the March 12, 2012 letter to Mr. Bistoff. Chair Yinger indicated that he had reviewed the application and agreed with the letter prepared by staff. Vice Chair Weick opined that the Portland Bureau of Environmental Services and the Water Bureau have a systemic problem with having only PEs supervising most projects. He agrees with the Board's letter and thinks there is a broader issue to work on with the city to address work in the overlap between professions vs. when a RG/CEG is needed. He also thinks it is an issue that is broader to cities and other public employers and not necessarily limited to the city of Portland. Jarvis asked for clarification about the ASBOG exam dates. Valentine explained that the applicant applied to take March 2013 exams, not the October 2012 exams. McConnell addressed Mr. Bistoff and offered her personal advice that he sit for the ASBOG Fundamentals exam. She then asked for clarification about whether the city has any internal guidance about who can do what. Mr. Burger responded that no such advice has been prepared by the city.

Chair Yinger noted that he thinks the Board needs to engage with the city on this broader issue. He asked if any Board members had recommendations about how the Board could approach this. Vice Chair Weick commented that the city organizational structure may be set up so that it hinders those with geology background to proceed in their careers. Stroud wondered if there might be a division within city that cuts across the silos of city government that the Board should meet with on this topic. Mr. Burger said there is a mechanism for technical training updates that multiple bureaus attend and maybe this could be used to offer training on professional practice. Mr. Bistoff added that the city doesn't really have geologist positions; only one geologist is on staff. He suggested there may be need for outreach on the human resources level about the differences between the engineering and geology professions. He noted that his background is in hydrogeology and water resources. Vice Chair Weick suggested that Valentine contact Bill Ryan, PE to discuss what might be best approach for an outreach meeting. Chair Yinger then asked for a committee to engage in this outreach or alternatively for board members to volunteer to work on this. The Board elected to go with an ad hoc committee of Chair Yinger, Vice Chair Weick, and Jarvis. In closing, Mr. Bistoff asked for permission to ask one more question, and Chair Yinger agreed. He wanted to know how another colleague with work experience supervised by a PE got to sit for the exams. Chair Yinger stated that such an approval by the Board would have been a mistake.

Old Business

Reference Manual for Building Officials

Vice Chair Weick and Valentine summarized the outcomes of the meeting held April 6, 2012 at the Oregon Board of Architect Examiners (OBAE). OSLAB Member John Pellitier, Registered Landscape Architect (RLA), was also at the meeting. The OBAE is open to OSBGE's participation in development

of the next update to the manual, but details about the scope of change remain to be worked out. The OBAE members were more familiar with the work of RLAs and so asked Vice Chair Weick a number of questions about how CEG and PE work varies and the extent to which it overlaps. Vice Chair Weick said it seemed like the architects did not really understand the relationship between engineering geologists and engineers nor that OSBGE's interests were solely focused on addressing this link in the manual. He thinks this will be a good first step for OSBGE even if only a modest change is effected in the manual. Valentine further explained that a conversation with the OBAE Administrator in mid-April revealed that the update may be put on hold for an additional year. The reason for this is that the OBAE is considering pursuing some statutory changes and would like for the manual to reflect any such changes. The Board was going to decide in the near future on the timing issue, and the OBAE Administrator will be in touch. She advised the Board that this effort may be on a back burner for a while.

Response to Medford

Valentine and Stroud referred the Board to the draft response letter authored by Stroud that was included in the meeting packet. OSBEELS review is pending. The Board may want to authorize Stroud and Valentine to finalize the letter once comments from OSBEELS are received. Vice Chair Weick stated that he reviewed the letter and finds it reflects a conservative approach. As such, he would be surprised if OSBEELS has major disagreements. It seems to track well with discussions about overlap that have occurred via the JCC. McConnell raised the question of how should OSBGE proceed if the OSBEELS committee does not address this at its June meeting. The Board discussed and consensus was that the letter would be finalized if OSBEELS' review is delayed, with a note to OSBEELS about this. The Board was concerned about the response being delayed much further.

Board Policies-Procedures

Valentine provided an overview of the policies included in the meeting packet. She placed eight (8) policies on a consent agenda: Accounting, Electronic Funds Transfers, Investment, Reimbursement of Expenses, Employee Compensation and Leave, Employment Status, Employee Discipline, and Workplace policies. The Board may decide that it wants more review but if not can take action via approval of the consent agenda. She has one additional policy addressing contracting and procurement included in the packet as a "homework" assignment to be discussed and hopefully finalized at the next quarterly meeting. She is still working on the records management policy. She briefly recapped from past meetings why she is working on policies and how she has come to the policies proposed for adoption. She stated that once new policies are in place, the Board will have a few rules to delete that were adopted over ten years ago to designate certain DAS rules as the Board's only policies for contracting, procurement and personnel. The Board has not previously had financial policies, but those proposed are responsive to the Board's interest in seeing key practices memorialized and to recommendations that stemmed from the last financial review.

Chair Yinger offered that he has read through the policies and has just a few changes to propose. On the Accounting Policy, he asked for a statement clarifying that ADP is the payroll company name and not an acronym. On the Investment Policy, he noted a few typographical errors – needs to say any interest earned on the Board's account and made available in a manner – with the locations of these changes noted by Valentine. Chair Yinger offered that he thinks the policies are good and will help the Board to keep better track of policies plus keep them updated. He asked for other members to also comment on the policies. McConnell concurred that stand-alone policies will be easier to update compared to rules. She stated that she only had a few questions about the reimbursement of expenses policy, which were addressed by Valentine. She also wanted to be certain that the Board's new members reviewed that policy in particular. Chair Yinger asked if any other members had comments or changes to propose, and no other comments or changes were offered. As a closing remark, Valentine clarified that personnel, contracting and procurement policies will need to be sent to DAS for their review once the Board completes the process of getting updated policies adopted.

Vice Chair Weick moved that the Board adopt items 1-8 on the consent agenda. McConnell seconded the motion. Chair Yinger, hearing no further discussion, called for a vote, and all approved.

Action List Review

The Board decided that it did not need to go through the list line by line. The Board did like the new format of having the action items organized by status vs. date assigned. Valentine will update the list after the meeting to incorporate action items assigned today.

Newsletter

Valentine noted that the Spring 2012 edition was issued. The Board discussed possible articles for the Summer 2012 edition. Jarvis shared his article about evolving registration to address changes in geosciences. His idea is solicit input from registrants, as was discussed to some extent under Outreach Committee. The Board discussed whether there will be an issue with these newer students and the ASBOG exams, i.e., will they be prepared for the exam or will the exam also need to evolve. The Board also discussed how to recognize a broader range of courses as contributing to geology education, whether the article should be from the Board or from Jarvis, and whether registrants will understand the kind of feedback the Board is looking for with respect to this issue. The general consensus was that an article would be included in the summer newsletter, authored by Jarvis.

Heinzkill brought to the Board's attention a recent article in the Register Guard newspaper about the Highway 20 road straightening project. He wondered if there was a story in this for the Board newsletter. The Board discussed this proposal briefly. Jarvis informed the Board about a two week session coming up at his institution called the Natural Resources Leadership Academy that will involve a field trip to the Highway 20 project. The field trip is scheduled for June 18, 2012. Jarvis will work on a newsletter contribution that makes a brief mention of this newsworthy geology story.

New Business

Report on ASBOG Council of Examiners (COE)

Stroud provided a report on his attendance at the COE held in Louisville, Kentucky. He found it to be a very good educational opportunity and now has a better understanding of the ASBOG exam and process. He was impressed by how ASBOG handles the design and review of the exams. He noted that the ASBOG exam is a very hard core geology exam.

Candidates for Board Membership/Invitation to Future Meeting

Valentine suggested that the Board start working soon on identification of candidates for the position held by Vice Chair Weick. Vice Chair Weick concludes his 2nd term at the end of December. Since the December meeting will involve an outreach event with PSU, Valentine offered that the September meeting might be the best one for potential candidates to sit in on if they have questions about the Board and its meetings.

Valentine asked if the Board was hoping for specific attributes in the next registrant member serving on the Board. The Board discussed a variety of questions about potential candidates: should the target be for a RG instead of CEG since there are now has two other CEGs on the Board, should the target be for a public agency RGs, would it be beneficial to look for an RG with private sector experience in environmental cleanup, and would any past technical reviewers be interested in Board membership. No final consensus was reached other than to include a general notice in the summer newsletter about the need for a new Board member and to send the same notice to AEG for its newsletter.

Consideration of Officer Elections (OAR 809-001-0010) - Sept. Meeting

Valentine reminded the Board about its rule calling for any officer elections to be held the meeting following July 1. She noted that the Board should consider electing a new vice chair as Vice Chair Weick will not be able to serve after December 31, 2012.

Public Comment

No public participants were present at this time.

Announcements

Chair Yinger and Valentine quickly walked the Board through the announcements list.

September 14, 2012 – Next Board Work Session/Meeting: Jarvis noted that he may have a conflict with this date. He reminded the Board that the meeting dates were set before he was a member. He will look into this and be in contact with Valentine. McConnell offered that she may also have a conflict but did not want the Board to reschedule on her account since she is not a voting member.

October 5, 2012 – ASBOG Exams: No comments.

October 31-Nov. 3, ASBOG COE/Annual Meeting: No comments.

December 7, 2012 Meeting – PSU Outreach Event: Board was pleased that this has been scheduled. No other comments.

Other: No other announcements were offered by Board members or staff.

Adjournment

Chair Yinger adjourned the Board at 4:25 PM.

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The minutes of the June 7, 2012 quarterly work session and meeting minutes were approved without revision at the September 21, 2012 Board meeting.

Christine Valentine, Administrator