

WORK SESSION MEETING MINUTES

OREGON STATE BOARD OF GEOLOGIST EXAMINERS JUNE 3, 2011

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

Members Present:

Richard Heinzkill, Public Member
Christopher C. Humphrey, RG, CEG, Vice Chair
Vicki S. McConnell, PhD, RG, State Geologist
Stephen B. Taylor, PhD, RG, Board Chair
Rodney J. Weick, RG, CEG

Members Absent:

Mark Yinger, RG

Staff Present:

Christine Valentine, Administrator

Guests Present:

None

Chair Taylor called the work session to order at 8:55 AM.

Chair Taylor gave a warm welcome to the new administrator and explained how he and Administrator Valentine have been working on the transition. He then gave a quick overview of the agenda for the work session noting that the focus would be on compliance. The Board had to put compliance work on the shelf for too many months. The Administrator has been reviewing the process and open cases, trying to absorb it all and trying to understand what has been done in the past, what might need to be changed, etc. This includes looking at the statute and rules. Chair Taylor stated that the Board would start with a report from the Administrator regarding her recent discussion with the Boards Assistant Attorney General (AAG) on the compliance process. Then the Board reviewed the open compliance cases.

1) Review of compliance process: Administrator discussion with AAG

Administrator Valentine referred the Board to a two-page report included in the work session packet. Several board members expressed appreciation for the summary, as information to be aware of and as a good reminder of key points.

The Administrator explained the purpose of two meetings she had with the AAG since starting with the Board in late March. The primary areas of concern are highlighted in the report: public records management, executive session, best use of AAG time/expense, committee function, and next steps in relation to Supreme Court case. She also summarized

OSBGE statute with respect to confidentiality of investigatory materials and how the Board really only has the Public Records Law to follow.

- Items 1 and 2: Executive Session/Public Record

After the Administrator reviewed these items, the Board entered into discussion about how the compliance process has evolved and why certain changes were made. For example, one change was that the Board became more sensitive to the use of individual's names on agendas and in minutes. This more cautious approach was in recognition that an individual name could be posted on the website in the minutes or other documentation even when the end result is dismissal with no Board action. The Board is in a tough spot because it does not have statutory language like other boards exempting investigatory materials from disclosure prior to a board decision. Some discussion about the pros and cons of seeking a statutory change ensued.

The Board recalled the past work session retreat where the revised approach to compliance case processing was solidified and then reflected in the flow chart. The idea was to get procedures in place that could be easily replicated and transferred with development of institutional memory. During the retreat, the Board designed the process to be more respectful of those individuals that complaints are filed against and to be more thoughtful about legal issues.

Compliance Committee Chair Heinzkill commented that the Board cannot continue to do business exactly the way it had been, e.g. asking reviewers to send technical review documents directly to the AAG and to the Administrator. This discussion confirms that the Board needs to ask the AAG for an opinion in order to have a reviewer form be attorney-client privileged. He has doubts about whether we should always ask for AAG review.

The Board also briefly discussed the history of public records requests, i.e. frequency, how handled, lessons learned, etc.

- Item 3: Timing of AAG Involvement

Administrator Valentine explained that this discussion with the AAG came up in context of reviewing the compliance flowchart. The AAG said he had not seen the final flowchart; the Board believed he had. Chair Taylor then asked the Administrator for copies of the compliance flow chart so that the Board could specifically review it as part of this discussion. The Board took a brief break while the Administrator made copies.

The Administrator stated the key question is how to make the most effective use of the AAG while avoiding last minute crises. The Administrator wanted to figure out if sharing information with the AAG as the case goes along would be helpful. After discussing with the AAG, she doesn't see much value in consulting just on a "FYI" basis. Also, how do we look at a case when it first comes in to determine a need for early consultation? Negligence is one key condition that might warrant early consultation. A case involving someone that has been the subject of past complaints might be another condition that warrants early consultation.

The Board then proceeded to review the flowchart for areas where AAG consultation/review is mentioned and to discuss the pros and cons of revising the flowchart to be more explicit or to add AAG input at additional steps. The Board looked at the 2nd box on the flowchart, then jumped down to the Technical complaint side/Technical Reviews as the areas that currently reference the AAG. The Board also discussed whether the AAG needs to be consulted on procedural cases or cases where no disciplinary action is taken. All seemed to agree that if a case involves potential of gross negligence or a major health/safety issue, then the Board likely does need AAG involvement. The rest of the time the determination will likely be case specific with the Compliance Committee deciding when the AAG is needed – often after consulting with a Board member about the case and issues at hand. After discussion, the Board decided to keep the chart as is and to consider case-by-case the level of egregiousness when determining when to get the AAG involved early helping set parameters

The Board then returned briefly to discussion about public records, in the context of determining what documents are or need to be subject to attorney-client confidentiality. Board members debated the relative merits of having technical reviewer forms or other documents sent to the AAG for review in order to better assure confidentiality. Board members had varying opinions about the importance of confidentiality for such documents.

Chair Taylor next lead a discussion of whether the Board should update the compliance chart to be clearer about running all final decisions by the AAG. The Board's perennial concern about not having liability coverage for Technical Reviewers or Board members came up. Does AAG review of documents help to protect individuals assisting with a compliance case and does the Board need to get a legal opinion on the validity/strength of confidentiality for these review documents? Board members recalled the reasons why all technical review reports were being sent to AAG and debated whether all should still be sent for review or if perhaps only those recommending action should go. Board members also discussed whether Letters of Concern needed AAG review since these are decisions to not pursue disciplinary action. For example, it was mentioned that Letters of Concern are not treated like other compliance outcomes. Staff doesn't mention a Letter of Concern if asked about compliance findings against a registrant. The letter is public record but not treated as a black mark against the registrant. No consensus was achieved on this point. These issues were identified as areas that needed to be further discussed with the AAG.

Chair Taylor determined that the conversation needed to move on due to time constraints. He summarized that the Board has greatly improved the compliance process and that no major changes are proposed at this time. However, the Board would continue to discuss these issues and with AAG as appropriate.

- Items (4) and (5):

Administrator Valentine explained that these issues came up in the context of another board. The AAG was asked to look into this and provided advice about when committees are or are not subject to public meeting law. The AAG came back with advice that seems to indicate a problem with the Compliance Committee in terms of making recommendations. The OAR says the committee is making recommendations and makes the Administrator an official member of the Committee.

Items discussed included: (1) implications of the Administrator not being a member of the Board for the “governing body”/quorum issue, (2) whether making recommendations to the Board really enough to trigger Public Meetings Law, (3) the possibility of changing to a Compliance Coordinator instead of Compliance Committee, and (4) the Committee’s role as one of making recommendations vs. just presenting findings so that the Board can develop recommendations and actions.

After some discussion, the Board agreed to look at fixing the way the Compliance Committee is currently structured within rule. The Committee is bringing investigation results/findings to the Board and not making final recommendations on behalf of the Board. We could fix the rule so the Administrator is not an official committee member but instead staff to the committee. The Administrator and Compliance Chair were asked to suggest language and put on future work session agenda for discussion.

Administrator Valentine summarized that this issue appears to only impact two other OSBGE committees: Joint Compliance Committee (JCC) (already noticed) and Rules (to be noticed when the committee is actually holding a meeting vs. soliciting individual responses from members).

- Item (6):

Administrator Valentine suggested that the Board discuss this in relation to compliance case 10-04-013. She explained her brief discussion with the AAG about how we might update rules but did not get into in-depth discussion with AAG. The Board discussed how this is going to require further discussion, including consultation with the AAG.

2) Review of Active Compliance Cases

Administrator Valentine clarified where the materials are in the packet. Chair Taylor asked for a brief refresher on the cases in process.

Compliance Committee Chair Heinzkill walked the Board through the compliance cases explaining that it had been a while since the Board was last able to take up compliance matters. He referred to the afternoon quarterly meeting materials - Compliance Committee Report. He proceeded to give a brief summary of the open cases and types of issues they raise. The Board then discussed each case individually.

- CC# 11-02-017

Compliance Committee Chair Heinzkill stated that this case raises issues regarding public testimony. The Compliance Committee is looking for guidance on what it should be doing to move this case forward. The Board reviewed a June 11, 2008 letter from AAG to Board regarding the public testimony exemption. (Clarified that this letter, tied to previous case that has been closed, so do not need to go into Executive Session.) Reading from the June 2008 memo, the legislative intent was to limit the board’s jurisdiction by prohibiting the regulation of public testimony by unregistered persons that review and analyze reports.

Board members discussed whether enough information is available to determine whether the respondent was providing public testimony or practicing geology? Was he giving testimony about existing information or providing new information? Is the concern with initial testimony, rebuttals, or all interactions in the public land use process? Which documents were stamped and were they stamped by a registered geologist or registered engineer? The Board reviewed the documents the Board has on file and concluded that someone needs to review all relevant documents – included those not yet in the Board file but available from the county as part of the land use record – to determine if the respondent was within his rights providing public testimony and not crossing a line into public practice of geology. Someone needs to review all the documents with an eye towards what is stamped, who stamped, overlap between geology and engineering, relation to public testimony, and presentation of new information not stamped/signed vs. reporting on existing information that was properly stamped/signed. The Board also determined that in fairness the testimony of geologist representing the opposing side in the land use case should also be reviewed to confirm that this public testimony falls within the exemption. The Board wants to look at both sides fairly as it appears the same issue could apply for both sides. The primary difference is that the respondent participated in the land use process as a representative of a business while the other geologist involved participated as a public citizen. The Board may need to get AAG input on whether that point matters in terms of law.

The Board tasked the Administrator with obtaining relevant documents from Yamhill County via public records request. Board member Weick agreed to do the technical review and will need all materials sent to him. He requested copies before June 21 to the extent feasible.

Board member McConnell mentioned that she will recuse herself ultimately from any decision-making in this case since the Department of Geology and Mineral Industries (DOGAMI) is involved in the permitting for the project.

At 10:30 AM, Chair Taylor called for a break. The work session resumed at 10:40 AM.

- CC#10-10-14

Compliance Committee Chair Heinzkill pointed out that the Board has a complaint and response for this case. The respondent has addressed the complaint fact-by-fact via his attorney. He admits to many of the facts and ends with statement that this complaint is just retaliation. This case was sent to Vice Chair Humphrey for an informal review. He used the Technical Form to review even though this appears to be a procedural case. Member Humphrey gave a summary of his recollections of the case: the respondent admits to taking responsibility for work he did not do and a person has to be “in responsible charge” or knowledgeable of the work that was done.

The Board proceeded to discuss whether this case warrants compliance action under OAR 809-20. The Administrator read the OAR language. The Board has a two part test: the registrant must take responsibility and must have professional knowledge. The Board needs to know how the respondent reviewed and evaluated the report. He needs to explain what he did with the report and why he met the two-part test. The Board may also ask what the other

geologist thinks about having the respondent stamp and sign the report. He did not give any particular permission that the Board is aware of at this time. How was the respondent able to validate the data if he could not contact the original RG to discuss the work?

After some discussion, the Board concluded that it did not have a consensus of opinion about whether the record on hand supported disciplinary action. Furthermore, the Board determined it did not have enough information to make a decision. The Board determined that the respondent needs to be asked to provide more detail about how he reviewed, evaluated and validated the report he stamped/signed. The Board also decided it needed a second reviewer from outside of the Board. That reviewer would be asked to look at whether there is enough evidence that the respondent stamped the report without appropriate knowledge. In order to keep the process moving, the Board determined that AAG input would also be needed prior to the Sept. meeting. Chair Taylor and Vice Chair Humphrey agreed to help develop specific questions for the respondent. Chair Taylor pointed to the respondent's statement in the letter to DEQ about taking responsibility and asking for further response on that point. See also Humphrey's evaluation page 2 of 5: item 4 1st bullet. The Board needs further clarification about statements made by the respondent in his August 24, 2010 letter. It is not enough to just review another geologists report; a practioner needs to be able to confirm that information is correct.

- CC# 10-04-013:

Compliance Committee Chair Heinzkill summarized the case. After receiving two technical reviews that suggest negligence or incompetence, the Committee decided to ask the AAG for advice. The AAG reviewed the technical reviewer reports and provided written advice.

During the work session, the Board entered into 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). The Executive Session commenced at 11:11 AM. The Administrator was tasked with analyzing the compliance case documents in relation to the AAG's advice and to work with the Compliance Chair on reporting back to the Board about the outcomes of that analysis. No final decisions were made by the Board in this Executive Session. The Board came out of Executive Session at 11:33 and the Chair called for a break.

Chair Taylor called the work session back to order at 11:44 AM

- CC# (UNASSIGNED/POTENTIAL CASE):

Compliance Committee Chair Heinzkill referred the Board to the geotechnical report prepared for a public university; see the March and June 2011 meeting packets. The Board has not received a formal complaint, and there is no case # at this time. The question is does the Board want to pursue a complaint? If so, then what is the process? Is it a JCC case and if so does it go first to JCC?

The Board reviewed materials from March 2011 packet and had Heinzkill fill in details about what had transpired to date with respect to the Board. Vice Chair Humphrey was asked to informally look at the report in question, and he agreed there was some cause for concern

here. He explained his concerns about the quality of the report and the registrant's qualifications to complete the report. The Board discussed both points and agreed in general with Humphrey's concerns. For example, the seismic section of the report was viewed as totally inadequate for the type of facility proposed. The Board also noticed that only an engineer-in-training had signed the document. The Board expressed concern about public health, safety and welfare and the need to inform the university about the Board's concerns.

The Board decided on the following next steps, to be done in parallel: (1) open a compliance file, effective today based on a complaint to be filed by the Board, (2) prepare a letter to the university informing them that the report is being investigated, inquiring about project status, and asking if final design was based on any additional geology reports, and (3) contact the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) about convening the JCC and once the respondent has been formally notified forward the materials OSBGE currently has.

The Board Administrator assigned a case # of 11-06-018. The Administrator will finalize the Board's complaint, starting with the draft from the Humphrey/Heinzkill review. The Administrator will talk to the OSBEELS administrator about the JCC process. OSBGE will trickle information into the JCC process as it becomes available. The Board wants to send the outreach letter to the university ASAP along with copy of report in question.

- CC# 10-01-003:

Compliance Committee Chair Heinzkill explained that no further action is required on this case. The committee just wanted to update the Board. The respondent was sent a notice of intent to impose penalties and did not request a hearing. Staff will work to get the actual notice imposing penalties out to the respondent in accordance with the Board's past decision in this case.

At 12:05 PM, Chair Taylor called for a short break so that board members and staff could grab lunch. The meeting was called back to order at approximately 12:15 PM.

3) By-laws/Policies-Procedures Development

Administrator Valentine gave her comments and proposal. She explained what she has learned from contact with SIBA members. She has reviewed the Board's draft and the AAG's response. She stated that we can come up with some combination of bylaws plus a policy-procedures manual. She thinks the AAG could have misunderstood the Board's intent behind the document they titled bylaws.

Board members discussed and agreed to the development of a policies and procedures manual. The Administrator was tasked with deciding how to organize materials and with bringing back a proposal to the Board. The Board also noted that it needed to clarify that the bylaws are not "approved" as final but "approved" for the next stage of development. The Board will make a motion to have the Administrator work into a policy/procedures document.

The Board then entered into a sidebar conversation about AAG services, contemplating how to best approach communications issues with DOJ. No decisions were made.

4) Technical Reviewer Pool

Chair Taylor commented that the Compliance Committee had put this item on the work session agenda in the past. The primary items of concern relate to expanding the pool of technical reviewers, documenting qualifications of the reviewers, and designing a volunteer review system that is sustainable. Compliance Committee Chair Heinzkill commented that he asked staff to pull available information on the technical reviewers. The Board has about 30 on the list and has contact information but not information on areas of specialty or their level of availability. He also noted that some have not filled out the necessary volunteer form. He has talked with the Administrator about working with a Board member to understand the professional backgrounds and areas of specialty, then trying to recruit technical reviewers to fill the gaps. Not much information is discernible from the internet as he tried that route. Technical reviewers have become more important under revised compliance process. He asked if this a project that new administrator should spend some time on?

The Board proceeded to discuss what type of documentation should be on file for these volunteers and how other boards handle this. Ultimately the Board determined that for the long-term sustainability of the compliance process, it needed to get this aspect of the process enhanced. The Board should periodically ask for information and solicit new technical reviewers. This was put on the Administrator's mid-term to-do list. She will start with the existing list and clean that up by getting volunteer forms and resumes.

5) Discussion of Possible Rules Development

Administrator Valentine explained that she will cover rules in the formal rulemaking process as part of Administrator's Report in the afternoon. She proceeded to explain that Rules Committee Chair Yinger was not able to get a formal report in but wanted to make sure the Board talked about the draft rule for reinstatement. The Administrator passed out copies of the last information discussed at the December 2010 meeting. The Board remembered the reinstatement rule and views this as a high priority. The Administrator was asked to work with Member Yinger on cleaning up the language and getting the revised draft to the rules committee.

The Administrator next highlighted two other areas that need some discussion, at least in terms of understanding the current priority for rulemaking: (1) Compliance/Supreme Court case and (2) In Responsible Charge. Item (1) came up some in the morning work session. The Board decided to invite the trial AAG and Board AAG to the Sept. 2011 work session to talk about possible rulemaking regarding standards of care, community of practice, and related compliance issues. The Board noted that rules on this topic will involve much effort.

If September doesn't work for a work session with the AAGs, the Administrator is to see about scheduling one for the December work session.

Item (2) was briefly summarized by the Administrator. She is aware of some draft rules that have been out for discussion but is not sure what all has come before the Board. At some point, draft rule revisions went to the AAG, and he came back with some potentially serious concerns. The process seems to have stalled after this but not entirely because of the AAG response. The Administrator noted that in her two months with the Board, several cooperative registration requests have come in. Staff has struggled with determining if experience described by applicants truly qualifies as in responsible charge and if applicants have provided sufficient details about their work experiences. Is there agreement about what "in responsible charge" means? Do we need to be more explicit about the level of detail needed as part of work verification? How should we deal with individuals that have long been working as sole proprietors and have not been supervised for some time? The Board confirmed this is a high priority area for rulemaking and that Member Yinger would be the one tasked to work with the Administrator on this. They are tasked with looking at the last draft, developing a rewrite, submitting the draft rules to the Rules Advisory Committee for review, then bringing back a report to the Board.

Chair Taylor adjourned the Work Session at 1:04 PM.

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Respectfully Submitted,
Christine Valentine, Administrator



The minutes of the June 3, 2011 work session were approved as presented at the Sept. 9, 2011 Board meeting.

Christine Valentine, Administrator

**MINUTES – QUARTERLY MEETING
OREGON STATE BOARD OF GEOLOGIST EXAMINERS
JUNE 3, 2011**

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

Members Present:

Richard Heinzkill, Public Member
Christopher C. Humphrey, RG, CEG, Vice Chair
Vicki S. McConnell, PhD, RG, State Geologist
Stephen B. Taylor, PhD, RG, Board Chair
Rodney J. Weick, RG, CEG

Members Absent:

Mark Yinger, RG

Staff Present:

Christine Valentine, Administrator

Guests:

Rachael Peavler, ASBOG Candidate [~2:57-3:20 PM]

The Quarterly Meeting was called to order at 1:04 PM by Chair Taylor.

1. Visitor and Board Introductions

No visitors were present. All Board members except Mark Yinger were present. The Administrator was also present.

2. Agenda Review: Additions and Approval

Chair Taylor presented the following agenda additions:

- Agenda Item 4 – Administrator Report
 - Add 4.g. software upgrade and training
 - Add 4.h. office equipment purchases

- Agenda Item 8 – Correspondence
 - Add 8.c. groundwater survey e-mail
 - Add 8.d. Valentine hiring letter
 - Add 8.e. AC 11-04-032 Standard Insurance letter

- Agenda Item 11 – New Business
 - Add 11.e. – ASBOG Nominations for Secretary

- Administrator Valentine highlighted and distributed a new piece of correspondence that goes with AC 11-05-033. She also informed Board members that a guest would

be arriving around 2:30 PM to discuss this correspondence with the Board. No changes to the agenda are required.

- Administrator Valentine also asked to add one agenda item regarding Board confirmation about accepting the CA CEG exam. Chair Taylor added this as Correspondence Item:
 - 8.f Cooperative CEG Information Request

Member McConnell motioned to approve the agenda as revised. Member Weick seconded. Vote: All approved.

3. Minutes: Approve March 3, 2011 and March 29, 2011 Meeting Minutes

Chair Taylor explained that the minutes were distributed yesterday by e-mail, with hard copies this AM. He apologized for the delay. The first set – March 3, 2011 – were drafted by the Chair. The second set - March 29, 2011 – were drafted by the Administrator and edited by the Chair. The Chair asked if there were any revisions.

March 3, 2011 Minutes - Corrections Submitted by Board Members:

- include the name of the Dean from WOU (Scheck) under visitors present,
- identify where we met, i.e., Monmouth Oregon as well as WOU,
- Fix typo on last sentence on that page – should say Board Member Weick not Chair Weick,
- Page 1, 2nd paragraph, 4th line down. Change - procedures instead of procedural,
- Bulleted list right below, item 6 – parenthesis missing,
- Next line below: instead of resides with, change to “is part of OSBGE” with input from OSLAB on their perspectives,
- Next to the last sentence of paragraph. Chair Taylor was “tasked” with keeping on schedule,
- Page 2: Weick’s Questions. 3rd sentence typo, OSBGE board,
- 2nd bullet, Humphrey’s question: typo – typo change to organizations,
- 4th bullet, Heinzill’s question – describe approach to making decisions (make it plural),
- Page 3: Taylor question, last sentence how did you persuade others that change (not chance) was necessary,
- Page 4: 11:50 am entry line 3 – giving (not given) each individual,
- Last entry same page – 2nd clause. “The” Board took a short break,
- Page 5: item 2 agenda, 2nd line. Taylor recommended reorganizing the agenda to provide time efficiencies, and
- Page 6: 2nd to last paragraph, 2nd sentence. He especially noticed...job in tackling.

Hearing no other changes, the Chair called for a motion. *Member Weick motioned that the Board adopt the March 3, 2011 meeting minutes as revised. Member Heinzkill seconded. Vote: All Approved*

March 29, 2011 Minutes – Corrections Submitted by Board Members:

- End each bullet as a sentence/period.

Hearing no other changes, the Chair called for a motion. *Member McConnell moved to adopt the March 29, 2011 meeting minutes as revised. Vice Chair Humphrey seconded. Vote: All Approved*

4. Administrator Report

a. Written Administrator Report

Administrator Valentine briefly summarized the written report provided to the Board and noted that a number of the items will be discussed later in the day. Thus, she did not go through everything at this time but instead provided highlights. She also addressed her outreach to date with SIBA members and briefly talked about the SIBA report on semi-independent boards included in the packet. She then referred the Board to an addendum to the Administrator Report regarding the next financial review. She explained why she is recommending a contract with Wicklund and Lew LLC and clarified that the cost would be \$3,200, not \$3,000 as had been stated in the addendum. She covered the differences between the last audit and the financial review proposed in terms of scope of work and costs. She summarized the three options considered: audit and two firms interviewed by SIBA about financial reviews. Generally in terms of this size of procurement, it would generally be acceptable to have 3 informal proposals. The Administrator could have the Board Chair sign the contract or could sign given the small amount. There is a need to get the contract in place soon to ensure the financial review is scheduled and the resulting report will be available by late December to early January. This timeline links to finalizing the Report to the Legislature before April 1, providing time needed for Board review and informal consultations with Secretary of State and other boards. The Administrator responded to various questions and comments from the Board.

Chair Taylor next decided to move up on the agenda discussion about correspondence #AC 11-05-033. He explained the background on the case and the outcome of ASBOG making a decision to void one exam. He stated that ASBOG is in full control of decisions about the exam. The candidate is concerned about being accused of an ethical breach. The Board has encouraged the candidate to take the exam again. The Administrator has explained that the Board cannot waive the exam fee as that money is passed through to ASBOG. The Board then overviewed the ASBOG test procedures, role of proctor, exam fee, and application fee. The Board decided that it could waive the \$75 application fee considering all of the candidates information is already on file.

b. Updated Revenue/Expense Report for Current Biennium

Chair Taylor lead a review of the OSBGE budget, starting with review of the Expenses/Income Sheet showing Budgeted/Actual totals. He noted that the Board budget is robust for this time in the biennium. Board members discussed specific budget line items such as interest income, computer data processing, and personnel expenses. The Chair noted that the Board has extra reserve funds in the bank compared to past years. He explained that most of the increase is due to savings related to the administrator vacancy between December

2010 and March 2011. He also noted that Edwards Jones is waiting for instructions on reinvestment in CDs. He reminded the Board that their strategy for CDs has been to set them up on a staggered 6 month schedule for the 18 month maturity dates. The Board Chair needs to call Edward Jones to give instructions. The Board then discussed the idea of taking some funds from the checking account and purchasing a few more CDs. After discussion about monitoring income and expenses over the next year for any changes in general trends, the Board members reached agreement regarding the strategy of purchasing two CDs at \$25,000 a piece.

c. Approve Check log #3271-3307 (Pioneer Trust) 9138 - 9140 (ADP)

The Board reviewed the check log. No questions were raised. *Member McConnell moved to approve check log – #3271-3307 and #9138 – 9140. Member Weick seconded. Vote: All Approved*

d. 3-Year Comparison of Changes in Monthly Renewals and Examinations

The Board reviewed the charts and tables and first focused its discussion on the low renewal rate shown for May. The data covered through 5/23/11, and the Board asked the Administrator to obtain 5/31/11 totals from the Registration Specialist. The Administrator left the meeting to go get the most current data from the licensing specialist. The end of May #s showed that 174 of 221 renewed or 21.27% of those needing to renew had not yet done so. There is still time for late renewals to come in. The Chair commented that this is still something to watch and revisit at the next meeting.

The Board next discussed the exam rate history statistics, noting that the Fundamentals exam numbers are fairly consistent but that CEG numbers are down (0 for the last two cycles). There was general discussion about pass rates being fairly consistent over time. The Board also asked the Administrator to include an Oregon to national exam rate comparison in the next newsletter.

e. Update on Edward Jones CD

The Board reviewed the most recent statement. See also comments under Revenue/Expense Report. Administrator Valentine explained that Edward Jones sent a signature card that needs to be updated to reflect the change in administrator. Chair Taylor noted that the new administrator needs to have signatory authority, like for check signing, to maintain sufficient representatives able to do this. He then confirmed with the Board members that there was agreement about giving Administrator Valentine authorization for the Edward Jones account.

f. Check Signing Authorization

Chair Taylor stated that the Board needed to decide about authorizing Administrator Valentine to sign checks and manage the checking account with Pioneer Trust Bank. Administrator Valentine explained that the Bank requires a letter signed by the Board Chair; she has prepared this letter for the Chair's signature. Once this letter is turned into the Bank, she will get the actual signature card that will need to be signed by the Chair and herself. Chair Taylor confirmed with the Board members that there was agreement about giving Administrator Valentine authorization for the checking account.

g. & h. Proposed Purchases – Software, Hardware, Supplies

Chair Taylor asked the Administrator to summarize the proposal to purchase new equipment, specifically a laptop, projector, and digital voice recorder. She stated that a written proposal had been sent to the Chair and summarized the estimated costs for this equipment: Laptop = \$1300 (Windows 7/MS Office 2010), Projector = \$ 700-900, Digital Voice Recorder = \$200. These items would be purchased via state price agreements. Discussion topics included proposed uses for equipment, security of the laptop, compatibility of laptop with office computers, and needs for upgrading office computers. The Board agreed with the proposed equipment purchases.

Chair Taylor then asked the Administrator to talk about proposed purchases of software. She explained that software upgrades were being considered in relation to production of the newsletter and other outreach materials. She proposes to obtain an updated version of Microsoft Publisher which comes with Office 2010 and to use this in connection with Adobe Acrobat Pro. The Adobe software would also have day-to-day usefulness in terms of scanning of documents to PDF. The current copier in the office can create PDFs but the quality is limited plus materials must be printed then scanned creating an additional step. The OSLAB Chair has agreed to pay for the software licenses for one machine, OSBGE would pay for the other. The software cost for OSBGE is estimated at \$525. Items would be purchased via state price agreements. The Board agreed with the proposed software purchases.

The Board asked the Administrator to research the estimated costs for converting the office fully to Windows 7 and Office 2010 and to determine which of the options of upgrading existing machines or purchasing new machines would be most cost effective and technically preferable. The Board also wants to know if any upgrades will be needed for the server. She agreed to report back on this at the next Board meeting.

Chair Taylor asked the Administrator to speak to training. At this time, she proposes that staff attend training in MS Publisher and Adobe Acrobat Pro. Training courses are available in the Salem area, and the estimated cost is \$425. The Board is supportive of this proposal.

Chair Taylor next asked the Administrator to report on her findings regarding options for replacing old office furniture to make the work environment more functional. Administrator Valentine stressed that her primary focus has been to consider upgrades that would ensure work areas are ergonomically adjustable so that it could be set up to suit existing staff but also adjust to any accommodate future staff. The office currently has older style, non adjustable wood desks and old office chairs. She has been looking into systems furniture - not cubicle furniture but the next generation of systems furniture. The cost for chairs is approximately \$700; staff have already tested out a new chair style and been measured for fit. The chairs would be purchased under state price agreement. As to the work areas, she checked with State Surplus first but nothing suitable is available there. She then contacted two companies on state price agreement and arranged for on-site evaluations and bids. One bid is in with the other due today. The estimated cost is \$6000-8000 for two staff work stations including filing plus a shared work space. This cost includes installation and getting old items out to State Surplus. The Administrator then explained the situation of having some furniture owned by

OSLAB and some by OSBGE. She has not asked OSLAB to invest in the systems furniture because it cannot be divided if the two boards decide to not share staff and office space. She could ask OSLAB about purchasing the chairs but thought it made more sense for OSBGE to own all of the new office furniture. The Board agreed to the chairs purchase and decided to have the Chair look at the rest after the final bid arrives.

The Administrator noted that she would work with the Board Chair and Registration Specialist to determine which of the new purchases could be made this biennium vs. next and how to shift funds between budget line items as may be necessary.

• **Agenda Item 8.a.**

At 2:57 PM, Chair Taylor decided to move to Agenda Item 8.a. as a guest had arrived to discuss this item. Board members and the Administrator introduced themselves. The visitor then introduced herself and explained her education and work background. Chair Taylor provided a brief summary of the situation, the outcome of ASBOG voiding the candidate's exam, and the Board's relationship with ASBOG and the ASBOG exam. He commented that the Board has reviewed her letter as well as the correspondence from her employer and that he understands her concern is to make sure there is no mark against her. He stated that the best idea is for her to take the test again. The Board's guest explained that she at first felt very passionate about needing to clarify that she did not cheat and expected that test would be graded. At this point, she is more willing to take the test again instead of getting the exam graded. She wants the record to be clear that she did not do anything wrong.

Chair Taylor acknowledged her concern and reiterated that ASBOG made the call about the exam grading. The Board encouraged her to take the exam and continue on the path to become professional geologist. In terms of reputation, there will not be a black mark on her registration. Neither ASBOG nor the Board stops you from retaking exam. He also noted that the Board does not control the ASBOG exam fee as this is just a pass through. The Board does control the application fee and will waive that since all the paperwork is already on file. He reminded the guest that the application deadline for the next ASBOG exam is today. She responded that she has registered to take the exam in September. She wrote the check to the Board including the \$75 application fee; the Administrator and Registration Specialist will work with her to get the \$75 refunded.

The Chair called for a break at 3:20 PM. The meeting resumed at 3:31 PM.

6. Compliance Report

Heinzkill

Compliance Chair Heinzkill read the Compliance Committee Report into the record, summarizing each case.

A)----(number not assigned) ---- geotechnical site investigation report for a community college, report was available online. Board directed that a case be opened; # is CC#11-06-018.

B)---CC #10-01-003— Complaint is that person indicated he is an RG on an Employment Verification Form (EVF) completed on behalf of an application to take the ASBOG practice examination, but his RG registration expired in 2000. Board previously decided to impose civil penalties. Notice to Impose Civil Penalty sent; respondent signed for the certified correspondence. Deadline to request a hearing was May 12, 2011, and the respondent did not submit a request for a hearing or otherwise contact the Board office. Staff is continuing with the contested case process.

C)---CC #10-04-013 --- Complaint is that RG is guilty of negligence because care, skill and diligence not shown as RG has been billing client for unnecessary work in monitoring groundwater for several years. Discussed related AAG advice in Executive Session. Additional direction given to the committee.

D)---CC #10-10-014 ---- Complaint is RG stamped work completed prior to his involvement. Respondent has been heard from. Board discussed as procedural case. Additional direction given to the committee.

E)-----CC #11-02-017 — Complaint is person who is not an Oregon RG has given testimony in support of a gravel mining permit while citing geologic work by his firm and therefore claimant contends the RG was engaging in the public practice of geology in Oregon in violation of statute. Respondent has sent response. Board discussed and give directions to Compliance Committee concerning further documentation and technical reviews needed.

The Compliance Chair also summarized the proposed Board recommendations resulting from the AM work session:

CC# 10-01-003: no further board action needed.	No questions/comments
CC# 10-04-013: needs further investigation.	No questions/comments
CC# 10-10-014: needs further investigation.	No questions/comments
CC# 11-02-017: needs further investigation.	No questions/comments
CC# 11-06-018: new case opened, further investigation	No questions/comments

Chair Taylor determined that no motions were required as no Board decisions were involved.

7. Committee Reports

g. Administrative Rules

Yinger & Valentine

Administrator Valentine summarized the rules items placed on the action list as a result of work session discussion this AM: (1) compliance committee, (2) reinstatement rules, (3) in responsible charge, and (4) invitation to AAG and trial AAG re: compliance authority/potential rules.

The Administrator next referred to the rules reports included in the packet. For the Budget rule, the process is complete. There are no substantive comments for the Board to consider. She confirmed the Board's final approval and stated that she would need to file the rule. The rule will be effective July 1, 2011.

On the non-budget rules - Signature, Fundamentals, and Fee rules, the Administrator explained where these were in the rulemaking process. The Signature and Fundamentals have gone through the rulemaking process. No comments received on the Fundamentals rule. One substantive comment on Signature rule was included in the packet for Board's consideration. The Administrator requested that the Board consider this comment and provide direction as to whether she should file the rule as originally proposed. The Board duly noted the comment but directed the administrator to file the signature rule as originally proposed. The Board also discussed a need to keep doing outreach on the signature rule. The Board asked that the Signature rule again be covered in the next newsletter. Board members discussed possible outreach via the website, such as an updated diagram and perhaps a flasher on the website drawing attention to the new rule. Several Board members wondered if a grace period would be appropriate, during which the Board could keep educating registrants about the new requirements.

The Administrator next explained the process error on the Fee rule that resulted in re-opening the comment period and setting a second hearing date. This creates a delay of about 30 days in the possible effective date. The Administrator asked the Board to consider whether she could file the final rule prior to the Sept. 2011 Board meeting if no substantive comments come in. The Board agreed with these terms for moving forward on the Fee rule.

h. Joint Compliance Committee (JCC)

Weick

Member Weick stated that there was nothing to report but noted that from the results of today's work session and Compliance Committee report, we may have to schedule a meeting of the JCC between now and the next board meeting.

i. Legislative

McConnell & Valentine

Administrator Valentine referred the Board to the report included in the packet addressing the 2011 Legislative Session. She summarized bills impacting semi-independent boards in general. She asked Member McConnell to speak to the OSBEELS bill covered in the report. The Board briefly discussed the changes made in the OSBEELS make up.

The Administrator next addressed what she encountered with SB 158 (OSBGE statutory immunity language bill)– opposition from the ACLU and not enough time to work on amendments to address this opposition. She also heard from the ACLU lobbyist that a citizen with complaints about the Board had come to the organizations attention. A compounding challenge was that the Legislator chairing the relevant committee didn't have any real interest in this bill. Board members discussed possible next steps regarding the immunity language and agreed that follow-up is required. The Board Administrator and members needs to work on the relationship with ACLU and respond to any concerns they have about the language or other issues coming in from citizens. The Board discussed trying to move the bill again in either the 2012 special session or the 2013 regular session. Administrator Valentine noted that the special session will probably not provide an opportunity given strict limits on bills and length of session.

The Administrator next shifted to a short briefing about bills related to public records and fees. She concluded with a discussion of the SIBA lobbyist contract and what has been learned from experience this session plus SIBA discussion in May. She asked for Board's opinion about renewing the contract. After some discussion, the Board concluded that it is not interested in renewing the contract for the 2011-2013 biennium.

j. Outreach

Taylor & Valentine

Chair Taylor covered two major events: (1) a highly successful outreach with WOU students as part of the March 2011 meeting and (2) getting the newsletter back on track.

Administrator Valentine inquired about potential articles for the next newsletter. Various ideas were discussed but no final decisions made. Possible articles are rule updates and a joint article by OSBEELS/OSBGE.

Chair Taylor asked whether the Board should go on the road in December - either to PSU or UO. After some discussion, the Board decided that the WOU visit in March would serve as the university outreach event for this year. The Board will get back on its normal outreach schedule in 2012.

k. Professional Practice

Humphrey

Vice Chair Humphrey stated there were no updates.

8. Correspondence

b. AC 11-05-033 Voided ASBOG Exam from March Administration

This was addressed earlier in the meeting.

c. AC11-01-005 E-mail Correspondence – Non RG Supervisor

This registered geologist is supervised by an engineer and asked the Board if this creates any issues regarding his registration. The Board reviewed and directed the Administrator to let him know that this is a non-issue for a RG. He is not getting work experience supervised to qualify for registration. However, also let him know that if he wants to pursue a CEG, then he needs to work under a CEG to get that to count towards his specialty registration. Work supervised by a CEG can be project specific supervision or full-time supervision. If he intends to just stay with the RG, then his situation does not present an issue. The Administrator noted that she will send an e-mail in response to the initial inquiry to notify the registrant of the Board's findings.

c. Groundwater survey e-mail

Chair Taylor noted that he found a record about this initial correspondence flagged by Member Heinzkill. The question was about a new type of equipment, and Heinzkill was called about this back in February. The Board discussed and determined that no further follow-up was required.

d. Valentine hiring letter

Chair Taylor summarized the hiring proposal and outcome. He entered the hiring letter into the record. The Board discussed and determined that no further follow-up was required.

e. AC 11-04-1102

Chair Taylor informed the Board about a letter from Standard Insurance regarding the former administrator. After some discussion, the Board determined that no further follow-up was required. The Board determined that the letter was informational in nature unless the Board had additional information to provide to Standard Insurance. The Board has nothing further to tell them.

f. Cooperative CEG e-mail

Administrator Valentine summarized the general inquiry received about cooperative registration for a CA CEG. She researched but found seemingly conflicting information in the office. This included review of 3 years worth of meeting minutes. The Board discussed and confirmed that the CA CEG exam is acceptable for cooperative registration when the applicant has also passed the ASBOG and met the requirements for an RG

The Chair moved to accept the following for CEG cooperative registration: pass ASBOG, show experience standard is met, meet all other requirements, provide all application materials, and have passed the CA CEG. The Board is not accepting grandfathering, i.e. just another state's CEG registration without ASBOG. Vice Chair Humphrey seconded. There was no further discussion. Vote: All approved.

The Administrator will follow-up with the person that inquired about this.

10. Old Business

Taylor

a. Action List

The draft action list is added to the record. The Board went over line-by-line, determining which actions were completed and directing that the action list be duly updated for review at the September meeting.

b. By-Laws/Policies-Procedures Development

No further action was taken other to confirm the instructions to the Administrator to work with the draft bylaws as a starting point for a policies/procedures manual.

11. New Business

Taylor

c. Application Reviews – Cooperative Registration

Administrator Valentine explained why this topic was included on the agenda and why the forms were included in the packet. This relates to the discussion the Board had during the work session about in-responsible charge.

Vice Chair Humphrey welcomed ideas from staff about what to include on the form. He volunteered to look at the forms and come up with ideas, keeping the in responsible charge discussion in mind. The Administrator agreed that staff would work on better defining the issues and inform the rules discussion around in responsible charge. Some example issues are applicants that cannot find past supervisors and the level of detail that the Board wants to see

to verify work experience. She also mentioned that staff wants to be consistent in how applications are treated.

d. OSLAB-OSBGE Contract Renewal for 2011-2013

Chair Taylor recommended renewal of the existing contract, updated to change to the timeframes in the contract from last biennium to this biennium and the name of the OSLAB Chair. Under the agreement, OSLAB will pay \$7200/month for the biennium, with the rest of the agreement staying the same.

Member Weick moved that the Board approve renewal of the OSBAB-OSBGE agreement with the changes discussed and direct the Chair to contact the OSLAB Chair to get the contract updated. Chair Taylor seconded. There was no further discussion. Vote: All approved

e. Position Descriptions – Administrator & Licensing Specialist

Chair Taylor reminded the Board about their past discussions about the Position Descriptions (PD). They spent time on the administrator PD prior to the recruitment, and they had talked about and budgeted for a reclassification for the Registration Specialist in recognition of the growth of that position and the employee. He explained where the 60/40 Executive Assistant/Accounting Technician III split came from.

Administrator Valentine explained the few changes made to the Administrator position description plus the revised format using current forms from the Department of Administrative Services (DAS). The Board approved this position description.

She then explained that the Registration Specialist did not have a PD and how the draft was developed: (1) review of appropriate DAS classifications, (2) input on current duties from employee, (3) discussion with Chair, and (4) sit-down review with employee. She next asked the Board for input on the FSLA/overtime applicability, stating that she believed the position is not exempt from FSLA which means the position is eligible for overtime where overtime is approved in advance by the Administrator. The Board discussed and ultimately agreed that the position is non exempt and is eligible for overtime. The Board suggested that a policy allowing compensatory time could be developed. The Administrator will need to emphasize the importance of sticking to a 40 hr. work week and keeping authorized overtime to a bare minimum. Flex time within the week would be acceptable to the Board. Advanced written permission from the Administrator is required for any overtime. The Board would ultimately like to see a written policy to address overtime and compensatory time.

Chair Taylor moved to approve the Administrator and Registration Specialist position descriptions, including the reclassification as described in the position descriptions and as further clarified in today's discussion. Vice Chair Humphrey seconded. Member Weick offered one comment regarding the Board motion in March to adjust the 2011-2013 budget to account for the reclassification. There were no further comments. Vote: All in favor.

f. Board Membership – New Candidates/Reappointments

Administrator Valentine provided an update on the reappointments process for Members Heinzkill and Yinger. She will continue to check with the Governor's Office on this but

noted these may not be processed until after the legislative session. Next, the Board moved to discussion about planning for new board members in recognition of the Chair and Vice Chair terms ending later this year. The Administrator stated that a newsletter article went out soliciting interest. One registrant responded to the Board Office as a result of the newsletter, and the Administrator has talked with that individual. Vice Chair Humphrey has also talked with that person. Board members reported on other individuals that might be interested and indicated where more follow-up is required. The Board reiterated the goal of finding CEG and university representatives but also acknowledged that it needed to keep options open at this point.

The Board then had a short discussion about who might serve as Chair and Vice Chair in 2012. All agreed that it would be best to have current members serve in these roles as it would be difficult for those without some experience on the Board.

g. ASBOG examination for Secretary

Chair Taylor inquired if anyone wanted to be nominated as candidate for ASBOG Secretary. None one was interested at this time. The Board had a brief discussion about how Board members have participated in ASBOG positions in the past.

12. Public Comment

No public comments were presented. (No one other than the one guest mentioned previously attended the meeting.)

13. Announcements

- h.** Sept. 30 – next ASBOG National Exam & CEG Exam. Friday. Rodney as tentative proctor.
- i.** Next Quarterly Board Meeting – Sept. 9, 2011 in Salem, OR

14. Adjournment

Chair Taylor adjourned the meeting at 5:25 PM.

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Respectfully Submitted,
Christine Valentine, Administrator



The minutes of the June 3, 2011 quarterly meeting were approved as presented at the Sept. 9, 2011 Board meeting.

Christine Valentine, Administrator