

# Oregon State Board of Geologist Examiners

## MEETING MINUTES

March 5, 2009

### Members Present

Richard Heinzkill, Public Member  
Chris Humphrey, RG, CEG, Board Vice-Chair  
Dr. Vicki McConnell, RG, State Geologist  
Dr. Stephen Taylor, RG, Board Chair  
Rodney Weick, RG, CEG

### Members Excused

Mark Yinger, RG

### Staff Present

Susanna Knight, Administrator  
Kyle Martin, AAG [8:30AM to 9:30AM]

### Guest Present

Dorian Kuper, RG, CEG [10:00 am to 12:00PM]

The quarterly meeting of the Oregon State Board of Geologist Examiners (OSBGE) was convened in Salem, Oregon, at The Association Center, Conference Room A and was preceded by a 9:00 AM Work Session. (Due to confusion over the meeting location, the work session was delayed from its scheduled 8:30 AM start.)

*Chair Taylor* called the Work Session to order at 9:00 AM noting that Mark Yinger was not yet present. At 9:05 AM, he announced that the Board would move into an Executive Session and read the following statement:

The Board will now meet in executive session for the purpose of reviewing documents that are exempt by law from public inspection under ORS 192.660(2)(f). Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision will be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.

The Board returned to the public session at 9:35 AM. Chair *Taylor* announced that any action from the Executive Session would occur during the Board Meeting. Following a 5-minute break, the Work Session began with the announcement that *Yinger* would not be present due to an auto accident while traveling to the meeting.

**2009-11 Budget:** *Taylor* directed the Board to ignore the draft 2009-11 budget which was in the meeting packet and to use the replacement draft being distributed. The Budget Committee (BC) (*Taylor and McConnell*) met on Tuesday, February 24, 2009, to evaluate the draft budget submitted by staff and staff was asked to revise or review several entries. The budget in the packet was the BC's revised budget. However, increases in the Assistant Attorney General charges were not reflected in that budget so *Taylor* distributed a revised document. *McConnell* reminded the Board that the budget philosophy for staff salary revolves around the DAS Personnel Policy, as this is the Board's adopted

policy. If DAS agrees to a freeze in salary for 2009-11, then the Board follows. *McConnell* also informed the Board of the current freeze and furlough (f&f) effective from 3/1/2009 to 6/30/2009 to which semi-independent agencies are exempt. The current f&f is not for rank and file but for managers and administrators and up to 4 furlough days are required. Final f&f decisions for the 2009-11 biennium remain under negotiations, but *McConnell* believes the f&f will also be applied to the 2009-11 biennium due to the current economic uncertainties.

*Taylor* then distributed a document listing the issues discussed by the BC and influencing the final budget recommendation. No increase of any fees was considered by the BC. *Taylor* stated that the budget anticipates a 5% registrant renewal drop on the income side and includes 1) salary freeze; 2) no step increase for staff; and 3) no furlough. The budget also incorporates three expense increases: 1) move to a new location; 2) reclassification of ½ time position; and 3) honorarium for Technical Reviewers. The budget also anticipates an increase in the Assistant Attorney General hourly fee as well as an increase in the use of the AG office due to restructuring of the compliance process during the recent retreat. The BC draft budget includes a zero amount for all out-of-state travel for the biennium. This travel represents Oregon's participation in the national ASBOG examination grading and development.

*Taylor* informed the Board that Oregon helps to fund ASBOG's Council of Examiners (COE) and many states do not contribute to this process. An ASBOG Foundation was added a few years back for funding the COE; the time has come for that to happen. *Knight* offered that ASBOG's test is Oregon's test and the Board needs to remain engaged in this process. *Taylor* offered that the Oregon Board is taking a two-year hiatus from participation after investing many budget dollars over the past 10 years and even with cutting the out-of-state travel, the Board needs additional expense cuts to balance the budget.

**Budget suggestions:** *Weick* commended the BC for an excellent job on the draft budget and suggested some cuts: computer hardware (\$1500); software (\$500); staff training (\$1200). *McConnell* suggested that an additional line item on the income side should be *Carryover-Ending Balance* of 2007-09. This becomes the beginning balance for the new biennium. Previous budgets have not done this, as the carryover funds were accumulated to build an Emergency Fund. [Note: The semi-independent Boards cannot request funds of the E-Board if it falls on hard times.] *Humphrey* inquired if the line item for Board Member stipend reflected removal of travel stipends for ASBOG participation since out of state travel was being cut. *Knight* informed the Board that it did not and this could really help on the revenue side. *Knight* stated that the budgeted stipend reflected the actual cost in a biennium if all Board Members are eligible for a stipend. At this time, only three members are eligible (state employees excused from their job to participate are not eligible for the stipend). The Board determined to use the actual number of Board Members currently eligible for the stipend as well as removing the stipend for ASBOG participation over the biennium since that has been cut from the budget.

*McConnell* offered that with the additional cuts and revisions to the draft budget, there is wiggle room of \$6654 if the fee revenue drops more than the anticipated 5%. The Board agreed that the Revenue number of \$483,975 should be used as the final budget figure and be submitted in the Administrative Rule for budget pending approval. *Taylor* informed the Board that no vote would be taken today but that a Special Phone Meeting would be convened to vote on the final budget. *Weick* offered that future budgets should have an automatic carryover line item.

**JTFAP Review:** At 11:00 AM, *Taylor* directed the Board to the Work Session draft document titled JOINT TASK FORCE ON AREAS OF PRACTICE (JTFAP) just released in February but dated April 2009. He offered that the Board’s role in this document is identified on page 13 under 5.3 titled **Regulatory Agencies** and then invited guest Dorian Kuper, RG, CEG, past national AEG President, to provide some history of the JTFAP. Following her summary, *Weick* stated that in Oregon, the Board determines what the practice is and he sent such a letter to a Californian that participated in the document draft. *Taylor* asked if Oregon would or would not use this document. *Weick* offered that this is clearly going backwards and limiting the practice of Engineering Geologists. *Humphrey* directed the Board to the table presented in the document and indicated that this table will be adopted as code by counties and cities. The table chooses to limit all work with structures to a Geotechnical Engineer. The Geology Boards of Oregon and Washington already test for these as represented in the Task Analysis. The table also allows an RG to do everything a CEG does. This is not okay in those states that regulate Engineering Geology. Only California and Oregon have Geotechnical Engineers but every state regulates engineering. Only California, Oregon and Washington register Engineering Geologists, and nothing in the table represents this. The question is why this document fails to represent the current state of the practice on the West Coast when those are the only states with an Engineering Geology registration. Kuper suggested that individuals’ comments be returned to AEG as the mid-April AEG meeting in Seattle will review comments. It is important that AEG hear about the issues of concern. *Taylor* agreed to take the lead in drafting a response from the Board that would also go to AEG, AIPG, and ASCE organizations. The draft will be offered to all Board Members for additional input.

At 12:10 PM, *Taylor* invited the Board to serve up lunch so that the Work Session could continue. After a brief break and with lunch served up, the Board continued with the Work Session agenda.

**Complaint Form:** *Heinzkill* reported that he had worked with the Board’s AAG in finalizing the draft presented to the Board. Board suggestions included the addition of [if applicable] and registration number if known. The Board discussed the application of the Plain Language Policy to this document. Suggested revisions included: ‘Who is this complaint filed against?’ and ‘Who is filing this complaint?’ *McConnell* offered additional numerous revisions. The Board empowered *Heinzkill* to complete the form and get it posted on the web.

**Guidance Document for Technical Reviewers:** After a few minor grammatical recommendations, the Board concurred that the document is ready to be tested in the Compliance arena when Technical Reviewers are again engaged in volunteer work. Thank you to *Taylor* for preparing the initial draft for Board review.

At 1:04 PM, *Taylor* moved two Work Session agenda items to the Board meeting: Web page language and Coastal processes.

Additional discussion completed the review of the GUIDANCE DOCUMENT FOR TECHNICAL REVIEW and the Work Session ended at 1:15 PM.

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*Taylor* called the quarterly OSBGE meeting to order at 1:15 PM and requested additions or revisions to the agenda.

1. **Agenda:** Additions were added as follows:

- a) The header of the Administrator report should be re-labeled to 3.a.
- b) Under Committee Reports, e., PROFESSIONAL PRACTICES should replace Task Analysis
- c) Add an additional correspondence to 6e.
- d) Add 8d, Request for CEG registration by Reciprocity
- e) Add document to 5c, Legislative Report.

*McConnell* moved to accept the revised agenda. *Seconded and passed. Humphrey, yes; Heinzkill, yes; Taylor, yes; Weick, yes.*

## 2. Meeting Minutes:

a) *Knight* pointed out that no Board Member names and dates are identified in the header of the December 5, 2008, Meeting Minutes although the header lists that the December 5, 2008, minutes were released via email to all Board Members on December 11, 2008 *McConnell* indicated that she had submitted some revisions. No other Board Members could recall providing feedback. Approval of the minutes was postponed pending follow-up.

b) January 10, 2009, Retreat Notes prepared by Facilitator: *Taylor* offered that the Facilitator had a good approach and that he did a good job capturing the information of the retreat. He asked member to detach the flow chart and place it with the web page discussion materials for a Work Session item at the next meeting. *Taylor* stated that follow up to the Retreat Minutes will occur at the next Work Session.

*McConnell* moved to approve the facilitator's retreat notes of 1/10/2009 as revised. *Seconded and passed. Humphrey, yes; Heinzkill, yes; Taylor, yes; Weick, yes.*

## 3. Administrator Reports

a) **AR 2009-01** (Appendix I): *Knight* directed the Board to the SUMMARY OF STAFF ACTIVITIES since 12/05/2008 and reported that much time has been invested in locating Engineering Geologist volunteers for the follow-up work from the Task Analysis. She also pointed out that the past quarter again reflects approximately a 5% drop in renewals. The Board concurred that these figures need to be carefully monitored every quarter in the next biennium.

b) **Updated Revenue/Expense Report for Current Fiscal Year:** The Board reviewed the budget vs. actual and expressed frustration with the numbers in parenthesis. *Knight* will review and see how this can be better understood in the report. The revenue vs. expense reports that the revenue is just under \$6000 over expenses to date for year two of the biennium.

c) **Check Log:** The Board discussed the missing check numbers and expressed concern about how they will know when these are included both in the Board's check roster and the payroll check roster. The following check numbers are not listed: Pioneer Trust Bank check #2942-#2949; payroll check #9094 & #9095. *Weick* moved to approve Check log #2897 to #2941 & #2950 and #9090 to #9093 & #9096 and #9097. *Seconded and passed. Humphrey, yes; Heinzkill, yes; Taylor, yes; Weick, yes.*

d) **3-Year Comparison of Changes in Monthly Renewals:** This report is included as requested by the Chair and will continue to be presented quarterly.

e) **Edward Jones Update on CD Purchase Agreement:** A \$21000 CD came due on 2/17/2009 and has been reinvested. Unfortunately, the 5.05% rate of 18-months ago is no longer available and the rate will be close to 1.5%. Over the past three years, the Board CD investment has grown by approximately \$9000.

f) **Travel Reimbursement effective 1/1/2009:** The personal vehicle mileage (PVM) reimbursement is now \$.55 cents per mile. The per diem for meals remain at \$11.25; \$11.25; and \$22.50.

*At 2:12 PM, the Board took an 8 minute break.*

**4. Compliance;** *Heinzkill* reported that action is necessary on two current complaints.

**a) Actions on current complaints:**

i) **CC#08-03-006:** *Weick* moved to withdraw without prejudice the second part of the motion of the March 6, 2008, Board meeting listed under b. CC#06-12-010 whereby the Board voted to issue a civil penalty for the violation of ORS 672.525 for \$1000 and for violation of ORS 672.525(5) for \$500 against respondent 2. *Seconded.* Discussion confirmed that only a section of the motion of March 6, 2008, would be withdrawn. Passed unanimously. *Humphrey, yes; Heinzkill, yes; Taylor, yes; Weick, yes.*

ii) **CC# 08-03-006:** *Humphrey* moved to issue two \$1000 civil penalties against the respondent in CC#08-03-006 for two violations or offenses of ORS 672.525(5). *Seconded and passed. Humphrey, yes; Heinzkill, yes; Taylor, yes; Weick, yes.*

iii) **CC#06-12-010:** *Taylor* moved to approve the STIPULATED FINAL ORDER as presented to the Board. *Seconded and passed. Humphrey, yes; Heinzkill, yes; Taylor, yes; Weick, yes.*

**b) Report on outstanding cases**

i) **CC#07-04-002:** Technical Reviews pending; no action necessary at this time.

ii) **CC#07-10-004:** Technical Review is complete; Compliance Committee is seeking clarification of recommendations; case will be ready for action at the next Board Meeting.

iii) **CC#08-04-008:** Technical Reviews pending; AAG will review to make recommendation to the Board.

iv) **CC#08-11-009:** Respondent to be contacted.

c) **New COMPLIANCE FORM:** Researched complaint forms of other Board and drafted a form which was subsequently reviewed by AAG and Administrator. This form was discussed during the Work Session. *McConnell* moved to approve the new complaint form as revised during the 3/5/2009 Work Session. *Seconded.* During additional discussion, the Board agreed that formatting could change in the final documents. *Passed. Humphrey, yes; Heinzkill, yes; Taylor, yes; Weick, yes.*

d) **Revised Web page description of compliance process:** *Knight* will rework wording for presentation at the June 2009 Board meeting.

**5. Committee Reports**

a) **Administrative Rules:** *Weick* reported that no action has occurred since the Board retreat but he and *Heinzkill* will tweak the Flow Chart for Compliance Cases and align the Administrative Rule with the Flow Chart. The rules for compliance as well as rules for electronic stamping and signature will be up for approval at the next meeting. *Taylor* confirmed with the Rules Chair that these rules would indeed be prepared for the next meeting. *Humphrey* also asked that the "in responsible charge" discussion by he and *Weick* also be considered by the Rules Committee.

b) **Joint Compliance Committee:** *Weick* reported that the term of Sue Laslow of OSBEELS ends on 6/30/2009. The JCC should meet possibly in April to finalize discussion items from the last JCC meeting. *Humphrey* indicated concern that much discussion was left

out of the draft minutes and do not include what he had asked to be included. Staff to contact JCC minutes writer for corrections.

c) **Legislative: SB 145, Compliance Immunity Clause:** *Knight* reported that SB 145 received a Hearing on February 3, 2009. *Taylor* joined *Knight* at the Senate Committee for Consumer Protection and Public Affairs to provide testimony. The Board's AAG has assisted in developing revised language and the Committee Chair allowed the bill to go back to Legislative Counsel for revisions. Identifying the State Geologist as a non-voting member of the Board will also be included in the revisions per the Committee Chair. *McConnell* explained to the Board that the Attorney General's office was thrilled that the State Geologist was non-voting because the State Geologist was able to serve as the advisor for the AAG at the Administrative Hearing for the revocation some time back. **SB 274:** *McConnell* distributed the first 5 pages of this bill relating to final orders of the Administrative Law Judge (ALJ). *McConnell* explained that if the bill passed, the Board would be required to accept any findings during ALJ hearings as final. This would leave no latitude for the Board in the process. *McConnell* inquired if the SIBA lobbyist was following this bill. *Knight* will follow-up.

d) **Outreach:** *Taylor* reported on the following two items:

i) **AEG February 2009 Newsletter:** The cover article discussed the Guest Speaker for the February meeting and the topic of River Restoration Education and Training. In the article, OSBGE was acknowledged as having weighed in on this topic in the October 2007 Newsletter article authored by *Taylor*. This was recognition of the outreach efforts of OSBGE.

ii) **K-12 Science Standards:** *Taylor* distributed pages 20, 15, & 14 of the final draft of the Science Content Standards Revision released 12/31/2008 titled: **Earth and Space Science Content Standards, Grades K-High School; Vertical Articulation of the Big Ideas in the Science Disciplines** organized by three disciplines: Physical, Life, and Earth and Space; and **Science Standards Framework**. The Board gave *Taylor* a round of applause for this huge success in leading the charge to acquire Earth Science requirements in the Oregon science curriculum. These changes have now been approved by the State Department of Education. *Taylor* stated the State needs to include an Earth Science endorsement in Oregon as they currently have such for Physics Biology and Chemistry and asked staff to invite someone to come to the Board and discuss how this happens with the Teacher Standards and Practice Commission..

e) **Task Analysis:** *Humphrey* reported that the January 12, 2009 Engineering Geology examination joint effort moved in a different direction by pulling out the listed knowledge and organizing these so that they could subsequently be attached to more than one content specification. At the February 12 workshop, volunteers retranslated questions into content area. Another two-day meeting is scheduled March 9 & 10 and *Humphrey* will be present. Three additional workshop days are on the agenda: May 14, 15 and June 2. Volunteers are still needed for all three dates.

## 6. Correspondence

a) **AC 08 11 226:** The Board discussed this future applicant's request to combine in responsible charge (IRC) and supervised experience and determined that no evaluation can occur until an application is in the Board's hands. The applicant must document any IRC experience and keep that document on hand. It appears as though the candidate might be eligible.

b) **AC 08 12 029:** The Board's answer to this inquiry about Electronic Signatures and Stamping is "no", your original stamp and signature are required! However, the Board is working on revising the Administrative Rules so a change is coming.

- c) **AC 09 01 019:** Former Board Member Lanny Fisk offered written congratulations to Board and shared positive comments about information read in the January newsletter.
- d) **AC 09 01 023:** The Board concurred that the individual needs to submit an application in order for qualifications for either examination or registration can be evaluated.
- e) **AC 09 01 030:** Satellite Service for Well Finding: The Board is not aware of this type of well finding service.
- f) **AC 09 02 025:** Update on Status of Joint Task Force: Per the Work Session discussion, the Board will issue a response letter.

## 7. Old Business

- a) *McConnell* asked that the staff reconnect with Marion County and inquire about what specific information would be helpful from the Board and would the county support it.
- b) *McConnell* distributed two documents titled: Geological Report Guidelines for New Development on Oceanfront Properties and Geological Report Guidelines for Shoreline Protective Structure Applications. A discussion about guidelines ensued. *Taylor* inquired if the Board should be posting such guidelines. *McConnell* stated that the Board has always had a history of providing guidelines. *Weick* cautioned the Board about making them a “rule” but offered that such guidelines should be out there as Board expectations. *McConnell* stated that the two guidelines just distributed are already on the DLCD Coastal Atlas website and inquired if the Board would want to link to them. *Humphrey* offered that report guidelines must be codified by the cities and counties, not OSBGE, and that if the cities and counties desire to have minimum setbacks, these also should be codified. *Humphrey* stated that the regulatory agencies should not get upset with the project geologists for mitigating for hazards which allow for lesser setbacks; this is what the current codes allow. *Taylor* suggested that if you collected the listed data, one could have the necessary information for a report. *Weick* added that if unstable land form can be mitigated to be buildable, then it could be allowed. *Taylor* then asked for an opinion from the Public Member *Heinzkill* about general guidelines presented by the Board. *Heinzkill* responded with “What do complaints about practice have to do with guidelines?” Both *Taylor* and *Weick* responded with “nothing” and you might still have complaints. *McConnell* asked to wrap up the discussion and stated that the guidelines are out there and it would be positive to add them to OSBGE’s guidelines. After additional discussion, *Taylor* moved to add the two documents to the Board web page with the appropriate acknowledgement. *Seconded*. No further discussion. *Heinzkill*, yes; *Taylor*, yes; *Weick*, yes; *Humphrey*, abstain. Motion passed.

## 8. New Business

- a) Adopt COMPLAINT FORM: The form was approved during the Compliance report.
- b) Adopt TECHNICAL REVIEWER GUIDANCE DOCUMENT [TRGD]: *Weick* moved to adopt the TRGD as modified during the Work Session. *Seconded and passed*. *Humphrey*, yes; *Heinzkill*, yes; *Taylor*, yes; *Weick*, yes.
- c) Adopt PLAIN LANGUAGE PLAN: This will be an internally applied plan. Delay adopting at this time.
- d) Reciprocity application: *Weick* moved to accept James Bianci application for reciprocity as a CEG in Oregon. *Seconded and passed*. *Humphrey*, yes; *Heinzkill*, yes; *Taylor*, yes; *Weick*, yes.

## 9. Public Comment: No public comment was submitted.

## 10. Announcements

- a) ASBOG Exam, March 6, 2009
- b) CEG Exam, March 6, 2009: A volunteer will assist staff as a proctor.
- c) Council of Examiners, Seattle, April 2 & 3, 2009, *Taylor* and *Yinger* to participate.
- d) ASBOG TAS Workshop, Seattle, April 4, 2009, *Taylor* to participate.
- e) Next Quarterly Board Meeting, June 12, 2009, location to be announced.
- f) Annual Board Picnic tentatively set for July 11, 2009.
- g) Special Phone Meeting for budget decisions to be scheduled for March 18, 2009.

The meeting was adjourned by Chair *Taylor* at 4:50 PM.

Respectfully submitted,

Susanna R. Knight  
Administrator

The minutes of the March 5, 2009 Board Meeting were approved as presented at the September 18, 2009 meeting of the Board.

Respectfully submitted,  
Susanna R. Knight