

OREGON STATE BOARD OF GEOLOGIST EXAMINERS

MEETING MINUTES

SEPT. 10, 2015

Members Present

Peter Stroud, RG/CEG, Chair
Kenneth Thiessen, RG/CEG, Vice Chair
Hans Feige, RG
Ian Madin, RG, State Geologist*

Members Excused

Scott Burns, PhD, RG/CEG
Stephen Tucker, Public Member

Staff Present

Christine Valentine, Administrator

(*Ex Officio member, did not vote on motions.)

LOCATION: Association Center, 707 13th St. SE, Salem, OR. 2nd Floor, Conf. Room "A"

Welcome/Introductions

At 9:09 AM, Chair Stroud opened the Board meeting with a roll call. Board members Burns and Tucker were excused due to out-of-state travel. All other members were present for a quorum.

Meeting Agenda Review

Chair Stroud invited discussion on the agenda. Valentine requested addition of a new business agenda item addressing Governor Brown's Executive Order on drought and a new mandate for all agencies, boards, and commissions to have water conservation and efficiency plans.

Vice Chair Thiessen moved to accept the agenda with amendment to include the new business agenda item on drought planning. Feige seconded the motion. Hearing no further discussion, Chair Stroud called the vote. All approved the motion.

Minutes

Chair Stroud opened review of the meeting minutes. He referred to minor typographical edits sent to staff for incorporation into the public session minutes. Valentine briefly summarized protocols for review and approval of public and executive session minutes. Chair Stroud asked for comments, and no edits were requested by other Board members. There was brief discussion about protocols for the preparation of minutes and retention requirements.

Feige moved to approve the May 29, 2015 public and executive session meeting minutes. Vice Chair Thiessen seconded the motion. Chair Stroud clarified that staff would address several typographical changes in the public session minutes. He then verified that there was no further discussion and called the vote. All approved the motion.

Consent Agenda

The consent agenda Part I covered exam and registration approvals, and Part II contained the quarterly log of payments. Feige confirmed that no challenging issues arose during the quarter with respect to application reviews. Vice Chair Thiessen had Valentine verify that one candidate was registered as a GIT. Chair Stroud asked Valentine to explain the bank lock box fee. There were no other comments on the consent agenda.

Feige moved to approve the consent agenda for exam and registration applications and the quarterly payments log. Chair Stroud clarified for the record that this consent agenda covered applications approved from May 16 through September 10, 2015 and payments made from May 13 through August 31, 2015 including checks 3913 to 3959. Feige amended the motion to reflect this. Vice Chair Thiessen seconded the amended motion. Hearing no further comments on the motion, Chair Stroud called the vote, and all approved.

Administrator Report

➤ Narrative Report: The following highlights were discussed with the Board.

◆ Biennial vs. Annual Renewals: A question was asked at the last Board meeting about the potential for considering a shift from annual to biennial renewals. The annual renewal process is set in ORS 672.585(2) which states that “[a]ll certificates shall be renewed annually at such time as will be designated by the board.” The Board cannot shift to biennial renewals absent a legislative change. At one time, ORS 670.410 allowed for boards to shift to biennial renewals but that statute was repealed in 2005.

◆ Shared Services Analysis Update: Board members were asked for input on the analysis outline. The analysis will look at the financial aspects of shared administrative services but also various qualitative aspects of the arrangement. Valentine reported that the financial savings are clear and briefly reviewed assumptions for that part of the analysis. Per request at the last quarterly meeting, Valentine shared preliminary thoughts on some of the qualitative pros and cons of the shared services model from the staff perspective. She encouraged Board members to think about pros and cons from the Board perspective that should also be captured.

Feige recommended that staff address not only the impact of various options on personal services costs but also how those costs relate to anticipated registrant costs since the Board is fully funded by fees. Board members briefly discussed the shared services model as a way to work with limited resources. Madin said the Board should consider any future changes based on whether money can be saved and services improved.

Valentine mentioned that the Landscape Architect Board identified the lack of practice overlap between the geology and landscape architecture professions as of importance. In addition, the financial benefits are clear to that Board.

Chair Stroud noted two questions that needed to be addressed: the timeframe for the analysis and the Board member lead to work with staff. It was decided that the analysis would be completed as soon as feasible during the biennium but without a mandate to complete by a specific date. Chair Stroud volunteered to serve as the Board member lead on the project.

◆ Continuing Education: Consideration of the Board’s operations led to Board discussion of continuing education. Vice Chair Thiessen referred to previous Board discussion about possibly pursuing development of a continuing education program as a strategic priority. He inquired about the status of this and asked staff for a reminder about what would be required to implement continuing education. Valentine said the Board would first need statutory authority for a continuing education program and then would need to develop rules and related procedures. The Board briefly discussed what might be entailed in the pursuit of a statutory change.

Vice Chair Thiessen posed the question of whether continuing education would benefit the public and said he thought it would tie directly to the Board's mission to protect public health, safety, and welfare. Currently, registrants do not have to demonstrate any effort to maintain, improve or expand their professional knowledge or skills. Even though the Board suspects that some registrants independently pursue continuing education, registrants not participating in continuing education may provide less protection for the public by not keeping up with new issues, techniques, etc. Feige agreed that the Board could better serve the public with continuing education as part of registration. It was determined that the Board would develop a detailed draft strategy on this topic and discuss at the December 2015 quarterly meeting. The Board determined that it should look at existing state programs for geologist continuing education and identify ways to engage with registrants on this topic. There was brief discussion about the availability of continuing education and general consensus that there are many options currently available. Feige was identified as the Board lead to work with staff on the draft strategy.

At 10:30 AM, Chair Stroud called for a break. He reconvened the Board at 10:35 AM. He briefly returned to the discussion of the shared services analysis and related matters by requesting that Board members individually share any additional ideas about what should be covered with Valentine.

◆ Accounting Policy: Staff recommended a few additions to the OSBGE Accounting policy to address financial procedures already in place but not memorialized in the policy. Feige commented on the importance of sound financial procedures.

Vice Chair Thiessen moved to adopt the recommended changes to the Accounting Policy. Feige seconded the motion. Hearing no comments, Chair Stroud called the vote, and all approved.

◆ Meeting Location Guideline: Staff recently found a policy titled guidelines for meeting location that was adopted by the Board in 2004 with amendments in 2007. Staff recommended that the Board rescind this policy since it is outdated and does not seem necessary as a means to establish annual meeting dates and locations. Staff will continue to keep track of the Board's meeting schedule at Oregon universities.

Feige moved to rescind the guidelines for meeting location. Vice Chair Thiessen seconded the motion. Hearing no comments, Chair Stroud called the vote, and all approved.

◆ Tort Liability Coverage: Board members were provided a copy of the recently updated state liability policy manual. This was provided for informational purposes only; no Board action was required.

◆ ASBOG Exam Requirement: Valentine presented a new outreach publication addressing why the ASBOG exam is required for all registrations. Feige thought the content was OK but asked that a date of publication be added. Vice Chair Thiessen suggested that counsel review the publication. Feige suggested that, unless significant changes are recommended by counsel, that staff post the final publication after updating to address counsel review. There was consensus with this approach and determination that formal approval was not required. Chair Stroud asked Board members to get any other comments to Valentine ASAP.

◆ Financial Review: In late July, staff received the CPA's list of requested documentation for the financial review and provided the first round of requested documents in early August. Staff has also facilitated the release of financial account balances to the CPA. Valentine reported that the in-house review of files by the CPA was scheduled for the fall.

◆ Online Payment/Renewal Research: The Board was informed of unanticipated delays in getting contract language approved due to a need to negotiate alternative language about payment processing and associated responsibilities stemming from OSBGE not using the State Treasury for banking purposes. She anticipated the contracts would be ready to sign shortly.

◆ 2015-2017 Personal Services Budget: Staff continues to await the release of the benefits package for non-union state employees. This is usually tied to what was bargained in union contracts. The question is whether OSBGE will maintain parity with the State of Oregon and if so, whether the personal services budget will need to be adjusted. In looking at contracts for the two largest employee unions, the areas for possible adjustment are cost of living adjustments and insurance premiums. Valentine recommended that the Board have the Budget Committee approve updates to the personal services budget to maintain parity and then present adjustments at the next quarterly meeting. There was agreement with this approach.

◆ Business Continuity Plan Update: Staff sent the draft plan to the Board Chair and Landscape Architect Board Chair to determine if the plan would be helpful. Staff is looking for feedback on whether information is unclear or missing. Chair Stroud confirmed that he would review the plan.

◆ SB 966: Feige asked for Valentine to address this new training mandate and noted that the training topics were similar to what he recently completed for a special districts training. Valentine briefed the Board and said she would monitor the training development process.

➤ Action List: Valentine referred to the availability of the updated action list in the packet. Chair Stroud noted that the majority of items would be discussed as agenda items.

➤ 5-Year Comparison of Renewals: Valentine noted that renewals were off pace in May and June and said this would be discussed in relation to the budget review.

➤ Update on Investments: Valentine reported that she resolved questions related to insurance for investment funds and proceeded to start the transition of funds from Edward Jones to Pioneer Trust Bank. She thanked the Board officers for their assistance in this process. This work will continue until all funds have been transferred out of the Edward Jones account and then that account will be closed.

➤ 2013-2015 Budget Review: Valentine provided an analysis of the 2013-2015 budget vs. actuals. Revenues for 2013-2015 were below projections and staff identified the following reasons: (1) revenue projections included modest growth in year 2 that did not materialize as registrant numbers remained very flat for the last 4 years, (2) number of registrants reaching age 70 (i.e., lower annual fee) appears to have been under projected in the budget, which has a fiscal implication based on existing fee structure, (3) non-renewal rates for the 4th quarter (April - June) of 2015 were higher than anticipated; staff does not know why this occurred, and (4) number of new candidates for the CEG exam was over projected.

Valentine explained that despite revenues not matching projections, the Board was in good financial position. Expenses for 2013-2015 were under projections for all but a few line items.

The 2013-2015 budget included an assumption that the Board would need to use up to \$44,000 from reserve funds to balance the budget. The biennium closed with the Board needing to tap approximately \$13,000 from reserve funds.

Looking forward, Valentine noted that the revenue projections in the 2015-2017 budget are more conservative than in the 2013-2015 budget. She also addressed how the reserve fund balance is being monitored and reminded the Board that it has a reserve fund policy which sets the operating reserve target as generally 6 months (but no more than 9 months) of expenses. Based on 2013-2015 actuals and 2015-2017 projected budget, the Board is trending towards ending the biennium with about a 1 year reserve. However, the Board has not addressed whether there is a need to set a designated or restricted reserve fund and doing so would reduce the operating reserve fund.

The Board discussed reserve monitoring, the pending roll out of online services and associated costs, whether the fee reduction for those over 70 should be reviewed, and how fees are set in general. Madin mentioned that the Board could look at whether an index adjusted fee structure might ultimately be beneficial. He explained that this would involve looking at the last year of income and projected income and basing annual fees on that information with rates changing each year. Feige and Madin both had experience with this approach for overhead rates under federal government programs. Valentine asked Madin to provide additional information so that this concept could be reviewed further at a future Board meeting.

Correspondence

Chair Stroud confirmed with Valentine that there was no correspondence to review and moved to the Compliance Report.

Compliance Report

➤ Complaint Cases: Valentine reported that the Board had no open complaints and that staff has not had any recent inquiries regarding potential complaints.

➤ Other Updates: The following updates were discussed:

◆ Phase II Reports: Staff provided an update regarding the records request process with the Department of Environmental Quality. The process has been slow but progressing, however staff had not received any documents as of the meeting date.

◆ AIPG Ethics Case, Developing Information: Valentine reported that she heard from an investigator with the California board that they were filing a complaint with the Idaho board to prompt Idaho's review of the matter. Valentine suggested that the Board monitor the Idaho case.

◆ Developments in Licensing Regulation: Valentine briefed the Board on the Supreme Court case North Carolina State Board of Dental Examiners v. Federal Trade Commission. This was an informational item only. Staff will monitor for any future developments related to this case, including any future information provided by the Oregon Department of Justice as the potential ramifications of the case become clearer. Vice Chair Thiessen reflected back to the Board's discussion about continuing education and felt that such a program might more clearly show the Board's contribution to public welfare.

Chair Stroud called for a lunch Break at 11:53 AM. He reconvened the Board at 12:33 PM and opened discussion on Committee Reports.

Committee Reports

➤ **Outreach:** Valentine distributed a list of discussion topics that was prepared for outreach with state agencies and that was piloted at a July 29, 2015 meeting with DEQ managers. The topics on the list were: (1) monitoring for Oregon Registered Geologist (RG) stamps and signatures on incoming geologic reports, (2) RG reviewers stamping and signing any original geologic work per the statutory definition of public practice of geology, (3) non-registered reviewers not being asked to evaluate/oversee the work of RGs without clear oversight/support of RGs in their agency, (4) non-registered reviewers not being put in the position of carrying out original geologic work, and (5) availability of supervised work experience for prospective geologist registrants working within state agencies. Valentine briefly summarized the overarching purpose of state agency outreach and how the list was developed to facilitate discussions with state agencies. The Board was also provided with an email from DEQ management reflecting on the discussion that occurred at the July 29th meeting.

Chair Stroud led a review of the DEQ outreach effort. The Board discussion covered possible next steps in terms of follow-up with DEQ management and registrants as well as determining the next state agency to approach. Chair Stroud and Feige were the Board members that represented the Board at the informational exchange with DEQ, and each thought the meeting went well. They noted that the DEQ managers seemed open to the Board's communications and supportive of working with the Board on registration-related issues. Feige noted how DEQ staff is reliant on other people's work vs. routinely preparing original work. He felt it was important for the Board to consider this in relation to registrants employed by DEQ or other state agencies. Chair Stroud then walked the Board through the topics list and the related DEQ input reflecting on the discussions that occurred at the July meeting.

The Board discussed the importance of having registrants working for state agencies flagging geologic reports and related work that is not stamped and signed by a registrant or that is otherwise questionable in some regard. State agencies can clear up many issues through direct communications with the individuals submitting reports. In limited cases, the issues may not be resolved in this manner, and then interaction with the Board is needed. The Board must rely on assistance from those that routinely see geologic reports to flag problematic work. The Board will then decide whether to open Board-initiated complaints after reviewing materials that were forwarded. The Board agreed that such submittals do not necessarily need to be submitted as formal complaints although an individual may determine in a given situation that he or she is obligated under the code of professional conduct to file a formal complaint with the Board.

The Board discussed the importance of providing ongoing support and guidance to state agencies on registration matters. In this vein, there was consensus that the Board would welcome an opportunity to engage further with DEQ management and registrants employed there to determine what types of questions may be coming up internally amongst the staff about geologic reports. The Board wants to build better mutual understanding about what would rise to the level of warranting Board review. In this vein, the Board would like to participate in the annual DEQ technical forum in May 2016.

Board members expressed some concern about review of geologic work by non-registrants at DEQ or any other state agency. It was noted that the nature of reviews needs to be considered, i.e., a regulatory compliance review vs. a technical review of geologic work. The Board expressed interest in better understanding where state agency reviews involve review of the quality and technical details of geologic work vs. regulatory reviews to verify that legal requirements are met. Nonetheless, there was consensus that some geological background is important to review the geologic work of a registrant. The Board wants to look for ways to encourage state agencies to

fully understand the importance of the registrant's role and how this expertise can support state agency work and thereby likely minimize state agency liability. The Board also does not want to see non-registrants unknowingly take on liability for geologic work either because a registrant was not involved or if involved was not identified in the agency response.

The Board agreed that it needed to continue outreach to state agencies and specifically identifying and communicating where possible with registrants involved in agency reviews and agency responses. In some cases, the registrant stamp and signature may be needed even if on an attachment of original work or in the review file instead of in the formal regulatory response letter. There was discussion about how a registrant reviewing reports for a state agency does have to rely to some extent on the work submitted by another registrant. The state agency reviewer cannot always assume the information is wrong. But the registrant reviewer does have to know what to look for in the way of problems with geologic reports and how to communicate internally or with the Board about such cases. There was also consensus that, in such cases, the agency reviewer or a registrant working with the reviewer will likely perform original geologic work in the review process.

Chair Stroud and Feige reported that DEQ management had an understanding of the need for aspiring geologists to gain supervised work experience. DEQ management apparently works with staff to ensure appropriate supervision is provided in such cases. The Board would like to ensure this is the case at all state agencies and also would like to see state agencies promoting registration for its employees as a way to ensure a minimal level of geologic competency among professional staff.

The Board revisited the issue of a future outreach schedule. State agencies identified for outreach exchanges were Water Resources Department, Department of Transportation, Department of Forestry, and DOGAMI. The Portland Bureau of Environmental Services was mentioned as another possible venue for review of geologic reports and thus possibly an appropriate organization to approach as part of the outreach effort. Feige volunteered to research the extent to which Bureau staff conducts technical reviews of geologic work.

With respect to DOGAMI, Madin said that he was evaluating how the Department has historically addressed the registration-related issue of stamping and signing and supervision. These issues are being considered in relation to the State Geologist recruitment. The Department has relied heavily on having the State Geologist take responsibility for all geologic work of the Department.

In wrapping up this conversation, Chair Stroud returned to the email received from DEQ and volunteered to prepare a response on behalf of the Board. Feige volunteered to review the draft response.

Valentine suggested that the Board consider whether to engage counsel in future discussion about types of state agency reviews and what constitutes original geologic work. She will discuss this further with the Board Chair before the next quarterly meeting.

➤ Rules Advisory: Feige reported that the Board did not have any active rulemakings. He noted that he and Valentine would attend a rule writing training in late October. Valentine said two 5 year rule reviews remain on the radar screen for 2016.

➤ Joint Compliance: Chair Stroud noted that the JCC had not met since Board's last meeting and that a meeting was scheduled for October 1. Agenda items are lacking, but the Board requested at least a brief teleconference meeting to attend to minutes and as good protocol.

Valentine stated that the new memorandum of understanding for the JCC had been approved by both Boards and signed. Board members were provided with a copy for their reference.

➤ CEG Examination: Vice Chair Thiessen mentioned that the exam review process is complete. Valentine confirmed that a revised exam form is ready and will be used for the October 2015 exam administration.

Valentine informed the Board that she recently learned that the Washington Geologist Licensing Board (WGLB) is apparently considering budgeting for a CEG exam task analysis. She requested more information but had not yet received any details of what is proposed. Depending on what WGLB decides, this might warrant a joint committee meeting by teleconference at some point to discuss. OSBGE has not budgeted for an exam task analysis in 2015-2017.

➤ Legislative: Madin provided a briefing on legislation related to DOGAMI. On the budget front, DOGAMI received funding to fill a gap for 2013-2015. The 2015-2017 budget was approved with increased funding for floodplain mapping, landslide mapping and earthquake positions plus additional funds for continued LiDAR work. Madin reported that the Legislature removed funding for the DOGAMI store due to continual loss of money from this venture. Instead, DOGAMI is in the process of making any unpublished mineral resource data available to the public and digitizing its full library. All publications will ultimately be available online.

Madin addressed how DOGAMI will report to the Legislature in early 2016 about financial management restructuring and in relation to this has shifted to a shared services model with DAS. DOGAMI will be initiating a process to gather stakeholder input on future agency changes, with specific requests for input on what services the Department should be providing and how those services should be funded. DOGAMI would welcome input from OSBGE. Chair Stroud agreed to be the lead contact for OSBGE.

HB 3089 provides DOGAMI with \$25,000 to prepare a report giving recommendations about geologic information available in relation to mineral potential and what is needed to support mining operations that would bring employment. DOGAMI has been invited to bring a cost estimate back to the Legislature for a more robust mineral program.

HB3563 increased aggregate related fees to address the deficit in DOGAMI mineral and land reclamation program. Industry also received a program for exclusion certificates which now apply to operations of under 5,000 cubic yards. Industry identified a need to monitor operations that do not require extraction permits. Madin said an unintended consequence is that some upland placer miners are now subject to the exclusion certificate requirement, which involves a fee and a new process. He anticipates this will create some pushback.

Chair Stroud requested that Madin update the Board on the DOGAMI Director recruitment. Madin summarized the recruitment process to date. Board members discussed the challenges of getting the right person for this position, which involves a very unique blend of administrative and technical duties. The Board remained concerned that DOGAMI and DAS fully appreciate linkages with the public practice of geology. The recruitment materials express a preference for a registrant or individual capable of qualifying for registration.

Valentine wrapped up the legislative report by informing the Board that there have been numerous announcements about new staff in key executive branch positions post legislative session. This included announcement of a new Executive Appointments contact, Mary Moller and a new director for DAS.

Chair Stroud called for a break at 2:15 PM. He reconvened the Board at 2:34 PM.

Public Comment

There were no public participants.

Old Business

➤ Delegation of Authority Update: Valentine noted that the Board requested an annual review of the delegation of authority document timed to coincide with the second quarter meeting. The review was carried over due to time constraints at the May 29, 2015 meeting. Most of the changes proposed were clarifications and housekeeping. The Board briefly discussed how the application review process has evolved over the last few years and the history of this document.

Thiessen moved to adopt the revised Delegation of Authority and Assignment of Duties to Staff dated September 10, 2015. Feige seconded the motion. Hearing no comments, Chair Stroud called the vote, and all approved.

➤ ASBOG Mtg. Update: The Board reviewed materials provided by ASBOG for consideration at the annual meeting. Vice Chair Thiessen was previously assigned as the OSBGE delegate.

Valentine noted that ASBOG proposes to increase the fee for the Fundamentals of Geology exam. ASBOG points out that the fee has not been raised in quite some time. Staff suggested that OSBGE advocate that any fee change approved become effective after the March 2016 exam. Fees for the March 2016 will already have been collected and orders placed for that exam prior to any ASBOG decision at the annual meeting. Retroactively capturing the fee increase would be an administrative headache.

➤ Exam Proctors Update: Per discussions with the Board at the March and May 2015 meetings, staff sent letters to registrants known to be retired and residing in the Salem area to inquire as to willingness to serve as exam proctors. This effort was unsuccessful at adding new names to the list of potential proctors. The Board supported expanding the effort to find volunteer proctors to other registrants in Salem and the surrounding area. The same letter may be sent to this expanded group of registrants. Valentine was also asked to include the request in the next newsletter.

New Business

➤ Board Officer Elections: Valentine summarized election information. There was brief discussion about the officer roles.

Feige moved to re-elect Stroud and Thiessen as Chair and Vice Chair, respectively. Madin seconded the motion. The incumbents were willing to serve another year. Hearing no further discussion, Chair Stroud called the vote, and all approved.

➤ OSBGE Guidelines – Periodic Review: The Board adopted updated report guidelines and the first ever public practices guidance document in May 2014. At that time, the Board said it wanted to ensure the documents were kept up-to-date and agreed to revisit in one year. Valentine asked if Board members saw a need for review at this time. Chair Stroud suggested that the Board invite comments on the guidelines via the next newsletter. He also suggested that the Board reach out to natural resource agencies as part of this process. Board members concurred with these ideas and briefly discussed possible future additions to the public practices guidance document in relation to any lessons learned as the Board continues its outreach to state agencies.

➤ Water Conservation/Efficiency Plan: Staff was informed at the beginning of September 2015 of a new mandate for all agencies, boards and commissions to develop water conservation and efficiency plans. These plans are due by Oct. 1, 2015. Valentine was assigned to prepare and submit the plan on behalf of the Board and will then work with the Board to monitor for additional actions or updates. There was a brief discussion of how there is a limited range of efforts OSBGE can reasonable take given its mission, operations, limited resources, and office location in a leased facility. Staff already included drought information in the Summer 2015 newsletter, posted an outreach item on the Board website, and shared information with building management for its consideration of water efficiency measures.

Announcements

Chair Stroud asked for announcements. There were none.

ADJOURNMENT

Chair Stroud adjourned the Board at 3:22 PM.

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The minutes of the September 10, 2015 quarterly meeting were approved as presented at the December 4, 2015 quarterly Board meeting.

Christine Valentine, Administrator