

OREGON STATE BOARD OF GEOLOGIST EXAMINERS

MEETING MINUTES

SEPTEMBER 21, 2012

Members Present:

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

(*Ex Officio member, does not vote on motions)

Staff Present:

Christine Valentine, Administrator

Guests:**

Sabrina Pearson, city of Wheeler
Shawn Rapp, RG
Kenneth Thiessen, RG, CEG

(**as noted in minutes)

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

WORK SESSION MINUTES

Chair Yinger convened the Board work session at 8:35 AM. All members were present. No visitors were present. Administrator Valentine informed the Board that visitors were expected later in the day.

Agenda Review

Chair Yinger quickly reviewed the agenda for the day. Valentine noted that the work session and quarterly meeting are now covered on one agenda, per Board request made at the June 7, 2012 meeting. There is also now only one sign-in sheet for the day.

Chair Yinger presented two changes to the agenda under Agenda Item 15 - New Business. He proposed to add 15 f. - Upcoming Outreach Presentation and 15.g. Administrator Performance Appraisal. *McConnell moved to amend the agenda to add new items 15.f and 15.g. Vice Chair Weick seconded. Chair Yinger asked for comment and hearing none called for a vote. All approved the agenda amendments.*

Complaint Case Reviews

Heinzkill and Valentine referred the Board to the supporting documentation in the work session packet noting there were two cases (**CC#11-06-018 and CC#11-12-003**) for the Board to discuss. For each case, the documentation provided to the Board to date includes technical reviewer reports. In addition, the Board has received documents providing counsel advice on both cases. As the Board will need to refer to these documents in its discussions of these cases, entering Executive Session was recommended by Valentine.

Prior to entering Executive Session, the Board was joined by a guest, Mr. Shawn Rapp, RG. He was welcomed but informed that he could not participate in Executive Session. Valentine escorted him to the Board office to await the return to public session. At 8:45 AM, Chair Yinger announced that the Board was entering Executive Session for the purpose of considering records or information exempt from disclosure by law, including written advice from the Board's attorney, as authorized under ORS 192.660(2)(f).

At 9:44 AM, Chair Yinger announced that the Board was returning to Public Session. No decisions on complaint cases were made during the Executive Session. The Board deferred further discussion on these cases to the quarterly meeting. The Board then took a short break to allow its guest Mr. Shawn Rapp, RG, to return to the work session. Another guest, Mr. Kenneth Thiessen, RG, CEG, also joined the Board at this time. Chair Yinger re-convened the Board at 9:50 and opened discussion on the next agenda item.

Administrative Rules Review

Chair Yinger directed all to the information contained in the packet for the **Complaint Process rule, OAR 809-055-0000** and noted that this rule does not require further action by the Board. Yinger and Valentine carried out the Board's direction to obtain review by counsel. They found the recommendations by counsel to be reasonable and non-significant in terms of alteration of Board intent for the rule revisions. Valentine explained that a copy of counsel's comments has been included for informational purposes. The Board authorized the issuance of rulemaking notice should Yinger and Valentine reach such a conclusion. While they reached this conclusion, notice issuance was held at that point to allow the potentially packaging of this notice with notice for the Misconduct rule, which will be discussed next. The Board briefly discussed but made no changes to the motion made at the June 7, 2012 quarterly meeting, i.e. to authorize issuance of rulemaking notice for this rule.

McConnell noted that she needed to leave the meeting from 10-10:15 AM.

The next rule discussed was the **Misconduct rule, OAR 809-020-0030**. Valentine reminded the Board that it asked for staff to request further review by counsel to re-look at how felonies were addressed in the rule revisions. The question asked by the Board was whether it needed to further specify in the rule that the felony must be related to the public practice of geology. Included in the packet for the Board's review is a response from counsel where he says this does not need to be elaborated in the rule itself. Yinger and Valentine recommend sticking with the proposed rule language as was presented to the Board at the June meeting (with a copy again included in this work session packet.) If the Board concludes that this rule is ready, then a motion will be needed in the quarterly meeting to authorize issuance of rulemaking notice. The rule could be packaged with notice for the Complaint Process rule. The Board briefly discussed and reviewed the counsel opinion. No changes to the draft rule language were presented by members.

Valentine explained that the proposal to update **Procedural rules, OAR 809-001-0000, 0020, 0025, 0030** addresses two items: (1) a small-in-scope but important update to the Board's rule addressing rulemaking procedures and (2) proposed deletion of contracting, procurement, and personnel rules that are outdated and have been made obsolete by Board work over the last year on updating its policies. On this second matter, Valentine noted how the Board elected to pursue updated contracting, procurement and personnel policies outside of administrative rules. The Board's updated personnel policies have been adopted. The Board has reviewed a combined contracting/procurement policy and that is up for possible adoption in the quarterly meeting. Once the Board has adopted an updated contracting/procurement policy, the three rules that define outdated DAS rules as the Board's policies need to be deleted. Valentine noted that, depending on the outcome of the Board's discussion in the quarterly meeting, the Board may be ready to authorize issuance of rulemaking notice for these changes. The Board proceeded to discuss, asking Valentine for some clarifications about the status of Board policies and thinking through options for a possible motion to proceed with rulemaking notice.

Valentine noted that she could address the proposal related to the **Budget rule, OAR 809-010-0025** as part of the Administrator's report in the quarterly meeting. However, the background documents were included in the work session packet in case the Board wanted to have some discussion during the work session. The Board elected to discuss during the work session.

Chair Yinger explained that he and McConnell individually consulted with Valentine about the possibility of a budget update for the current (2011-2013) biennium. They both expressed support for a budget rule revision based on the updated budget document found in the packet. Valentine next explained that revenues are stronger than projected due to two factors: (1) OSLAB monthly administrative fee is higher than projected in the budget and (2) renewal revenues have not declined despite the economy resulting in revenues exceeding budget projections. She stated that non-personnel expenditures are lower than projected for fiscal year 1, and personnel expenditures are tracking as predicted when the Board last looked at personnel costs in late 2011. She developed, in consultation with Budget Committee members, a revised budget in support of an increased expenditure limit for the 2011-2013 budget. If the Board opts to implement an increased expenditure limit, it will need to authorize issuance of rulemaking notice to amend the budget rule.

Valentine walked through the budget document in some detail and answered questions. The main topics discussed included the administrative services revenue, the proposed guidelines project, ASBOG meeting expenses, Board reserves, and how much to increase budgeted expenditures. The Board noted that a motion would be needed in the afternoon regarding specifically how to proceed with this proposal.

Guidelines Project

Chair Yinger opened the discussion by reminding the Board about its discussion at the June 7, 2012 meeting, including a request that the Professional Practices Committee develop a draft scope of work. He explained that he did not call a meeting of the Committee as he ultimately felt the work would be premature as in retrospect the Board did not seem to make a clear decision in June about how to proceed. He asked for more discussion about development of a scope of work, i.e. what is the specific project the Board wants to pursue.

Vice Chair Weick stated that his position remains that the Board should move away from the guidelines and towards fact sheets that express Board positions on varying topics. McConnell: expressed concern about the Board still not being able to answer the question of what do

registrants and non-registrants need or want from the Board. She opined that perhaps the Board needs to organize an outreach meeting or conduct a survey to solicit more information. Valentine reported that the request for feedback included in the Summer 2012 newsletter generated only one comment. McConnell said she thinks the Board needs to be very proactive about this by checking with a cross section of registrants and at least checking in with local governments as interested non-registrants. Heinzkill felt that guidelines are most important for non-registrants or registrants acting as technical reviewers. He suggested that registrants may not really need the guidelines if they feel they already know best practice in the field. Stroud suggested that the Board needs registrant feedback on the question of what technical areas should be addressed in guidelines. He also suggested that the Board include a research component in the project once the technical areas are determined.

Yinger noted that the Board was talking about two audiences, with each likely needing a separate type of document. McConnell agreed, noting that perhaps something like the fact sheets proposed by Vice Chair Weick should be developed and tiered to the guidelines. Heinzkill stated that these could possibly be developed in tandem.

The Board briefly revisited the issue of whether guidelines would offer best practices or minimum standards. This important distinction continues to be a challenge for the Board, with agreement that the Board should provide best practices but perhaps also needing to address some basic minimum standards without trying to exhaustively define minimum standards via guidelines or rules. Heinzkill cautioned that materials produced could lead to confusion if covering both best practices and minimum standards.

Vice Chair Weick raised the issue of how specific guidelines should be, especially if the Board starts off with guidelines and builds towards fact sheets. He pointed to the hydrology guidelines as perhaps too detailed for this approach. The Board discussed that it may need to provide guidelines that are more detailed than a checklist such as a list of questions or consideration for the practitioner to review in planning, carrying out, and documenting work.

The Board next discussed the existing guidelines and where to start with efforts to update the guidelines. Yinger mentioned that the Board previously discussed starting with the hydrology guidelines. McConnell noted that the engineering geology guideline seems to be the most used of the Board's guidelines. McConnell and Valentine noted how local governments, particularly those in coastal areas of Oregon, already mandate that the engineering geology guidelines must be followed. Yinger stated that if local governments are actively using this document, then the Board has an obligation to help those local governments and should make this the top priority. After some discussion, the Board members reached agreement about starting with the engineering geology guidelines.

Heinzkill expressed that in addition to what practitioners or others want, the Board also would benefit from the guidelines. He is still interested in how guidelines might be of use in complaint case reviews. McConnell appreciated this concern but noted that the Board may not be able to build guidelines that can also serve, at least not without supplemental materials, as the guidance document Heinzkill would like to see for the complaint case process.

Board guest Kenneth Thiessen, RG, CEG mentioned that OSBGE might find information from the California (CA) board helpful, at least based on his recollection of how that Board worked in the past. He noted that before the CA Board was consolidated with other boards, they had some guideline documents available. He was unsure whether those are still available.

The Board discussed the following as likely tasks in the engineering geology guidelines project:

- review existing OSBGE document and note areas that would require updating,
- search for existing guidelines that might be good models in whole or in part,
- talk to professional associations about needs and what is best practice in the field
- based on research, define options for addressing minimum standards, best practices or both (do not specify upfront whether guidelines must be minimum standard or best practice),
- request draft recommendations about how the Board should proceed (such as adopt an existing guideline, re-do the OSBGE guideline, etc.), and
- request a draft update to the OSBGE guideline as an option.

Jarvis recommended the Board consider work done by Portland State University (PSU) in conjunction with the Department of Environmental Quality on the graywater program as a possible model. PSU prepared the technical guidelines, and another entity prepared fact sheets that support the guidelines. The guidelines are for practitioners while the fact sheets are educational tools for general citizens. He suggested that OSBGE could look to the four universities in the valley as entities that could likely take on the proposed work. Jarvis noted that from his experience this type of project would generally involve graduate students and a faculty member. Stroud asked whether graduate students and the supervising faculty would have enough knowledge about engineering geology practice. Jarvis suggested that the work could include convening of a science panel to give technical input to the student and faculty person. Jarvis and Stroud agreed that practitioner input would be essential.

The Board briefly discussed whether registrant consultants would want to do this work but felt this was unlikely to be an issue of competition by the universities. The Board also noted that working with a university would provide an educational opportunity to students (i.e., future registrants). Nonetheless, Yinger suggested that the Board could write the scope of work to be open to either consultants or universities bidding on project to see who is really interested in this type of work.

Jarvis agreed to draft a scope of work, with Stroud assisting in review and development. Valentine will assist with coordination of the effort, including collection of individual comments from other Board members.

Wrap Up/Topics for Next Work Session

The Board identified the guidelines scope of work and complaint cases as the known agenda items for the next work session.

Chair Yinger adjourned the Board work session at 11:45 AM.

QUARTERLY MEETING MINUTES

At 12:40 PM, Chair Yinger convened the quarterly meeting. All Board members were present. Guests present during the Board's earlier work session elected to leave prior to the quarterly meeting.

Agenda Review

Yinger noted that the Board reviewed the entire agenda for the day during the work session. *Heinzkill moved to adopt the agenda as amended in AM. Yinger seconded and made sure everyone agreed. All approved.*

Minutes

Chair Yinger opened discussion on the meeting minutes from June 7, 2012. Vice Chair Weick shared that, in relation to the discussion on pg. 2 under General Matters, he reviewed the Board's statute and rule regarding specific statute of limitations for complaint cases. He thinks the Board should consider developing a policy to limit having old work brought before the Board and agreed to bring this up under the Administrative Rules Committee agenda item.

Hearing no further comments, Chair Yinger asked for a motion. McConnell moved that the Board adopt the June 7, 2012 minutes as drafted. Vice Chair Weick seconded the motion. Chair Yinger called for vote, and all approved.

Administrator Report

Narrative Report

Valentine noted that she continues to use the report as a catch-all place to include updates related to agenda items as well as other matters. In her oral comments, she focused on those items that would not be addressed under other agenda items. She noted that the office move went well, and staff is very comfortable in the new space. Moving has also helped to reinvigorate staff motivation to continue sorting through historical records as part of a continual effort to better organize the office and address records retention requirements. She encouraged Board members to stop by the new suite. She also noted how she would like to spend some time at the next Board meeting going over the basics of what semi-independence status means for OSBGE and its registrants. With new members and an upcoming regular session of the Legislature, she thought the timing was right for this. On financial matters, Valentine explained how she has been working with staff from the Legislative Fiscal Office (LFO) to answer questions about the Board's biennial report in relation to LFO's work to create a summary report for semi-independent agencies. She noted that the budget discussion during the work session addressed the updated revenue and expense report for the biennium. As for the 2013-2015 Biennium, she noted that the Board would likely need to adopt the 2013-2015 budget at the March 2013 quarterly meeting. This would leave enough time for the permanent rulemaking process that is required to adopt the budget rule prior to July 1, 2013. This means the new budget will need to be a topic of discussion at the December 2012 meeting or addressed in a special teleconference meeting between the December 2012 and March 2013.

Valentine then asked for the Board's input on a rules interpretation question regarding the meaning of upper division courses as applied in transcript reviews. She explained how Board rules have a list of geology coursework, require 36 hr. (80%) of upper division coursework, and

define upper division as 3rd or 4th year. She asked if a course found on the list adopted in rule but shown on a transcript as completed in 1st or 2nd year or with 100 or 200 numbering should be viewed as upper division coursework. She further explained the process for reviewing courses not on the rule list, i.e. obtain information on the course and work with the outreach committee chair on review. The Board discussed and ultimately concluded that the course determines whether it is 3rd or 4th year level and not when it was taken or how an institution numbers the course. The Board confirmed that current practices for transcript review were appropriate.

Valentine next shared information with the Board about ASBOG procedures for manual re-grades and proctored exam reviews. She explained how a request from a March 2012 exam candidate resulted in her reviewing Board procedures related to these ASBOG options. The Board has in the past accommodated the manual re-grade but not the proctored review. Discussion ensued about what these ASBOG processes provide and whether the Board should look at allowing for the proctored review. Jarvis stated that the proctored review should be an option for candidates. Weick agreed and suggested the Board draft a policy that would allow proctored review. Valentine agreed to work on this for discussion at a future meeting.

Updated Revenue/Expense Report for Current Biennium

This was combined with the Administrator's Report discussion on budgets. McConnell asked for clarification about the balance sheet dated July 1 to Sept. 7, which showed a negative balance. Valentine explained that revenue is low in the summer months based on renewal cycles so expenses can exceed revenue during that timeframe. Vice Chair Weick noted that the Board is on target with revenue for the year.

Approve Quarterly Payment Log

Chair Yinger asked if there were any questions about the log. Jarvis asked for a clarification about several checks and on stipend policy. Valentine summarized the application of the stipend policy. Chair Yinger asked about charges associated with Pioneer Trust Bank. Valentine explained that the remote deposit capture fee is for the check scanner and is offset by a payment each month from OSLAB for half this cost. She further explained that the analysis charge is not new. It is calculated on a monthly basis, and she believed that it is based on the ratio of incoming and outgoing money plus final monthly balance. Yinger asked Valentine to get more information on the analysis charge, particularly so the Board could see if it could be avoided going forward.

Vice Chair Weick moved to accept the payment log dated May 25, 2012 through September 7, 2012 as presented. Stroud seconded. Hearing no further discussion, Chair Yinger called for a vote, and all approved.

3-Year Comparison of Changes in Monthly Renewals and Examinations

Valentine handed out the renewal information, explaining that staff missed getting this into the packet. The Board briefly discussed, noting that renewals remain strong.

Update on Edward Jones Investments

Valentine noted that she, in consultation with the Chair, directed EJ to reinvest funds from matured CDs into new CDs. She followed the investment plan previously put in place by the Board.

Compliance Report

Heinzkill

Heinzkill noted the following about the Board's two ongoing complaint cases:

CC#11-06-018

Complaint is that report prepared by a CEG for community college report is deficient. Heinzkill mentioned that the Board discussed new developments in the case during the work session.

Vice Chair Weick moved to close case CC#11-06-018 with a finding that allegations related to the practice of engineering geology are unfounded and the allegations related to practice of engineering have been referred to OSBEELS. Jarvis seconded. Chair Yinger called for discussion. Vice Chair Weick clarified that the administrator would prepare a letter for the respondent, with copies to the college and OSBEELS, as discussed during the work session. Yinger called for vote on the motion, and all approved.

CC#11-12-003

Complaint is that CEG provided professional services outside his training and experience in the construction of a roadway. Heinzkill noted that the Board discussed new information in the case during the work session.

The Board did not take action in this case. The Board did direct the Administrator to contact OSBEELS to let that board know that OSBGE anticipates taking action on this case at its December 7, 2012 meeting.

Other

Heinzkill noted this is the second quarter in which there were no new, confirmed compliance cases. The Board received one letter that says it is a complaint and asks the Board to investigate. The case has been assigned a number (CC#12-08-004) for tracking purposes. This person thinks his work has been misrepresented. The information was not submitted on the OSBGE complaint form so the Administrator has contacted the complainant about the need for the written penalty of perjury statement and provided a copy of the complaint form. Furthermore, additional information may be needed to determine the appropriate next step.

Heinzkill also wanted to note that the two ongoing cases (CC#11-06-018 and CC#11-12-003) were sent to the Joint Compliance Committee (JCC). The Board should be aware that both open cases listed below will have taken over a year to resolve. Heinzkill stated his concerns about the timeframe of JCC review, noting the JCC process causes significant delays but that he doesn't know the solution to this. He also questioned why the JCC flowchart and other information about the process are not posted on the website. McConnell suggested that the OSBGE website be updated to link to JCC information on the OSBEELS website and that a description of what the JCC does also be added, along with the OSBGE-OSBEELS MOU and if possible the JCC flowchart. Valentine noted that the flowchart needs revisions per the last JCC discussion, but the JCC hasn't met to approve a new version. Vice Chair Weick noted that the Board needs to be clear about the JCC only meeting when it has a case ready for its consideration, which leads to delay in approving minutes.

Committee Reports

Rules Advisory Committee

◆ Misconduct Rule

Yinger requested a motion related to the Misconduct rule and work session discussion about moving forward with the rule revisions as presented. *McConnell moved to authorize issuance of rulemaking notice for OAR 809-020-0030, Misconduct. Vice Chair Weick seconded. Chair Yinger asked if there were any comments. Hearing none, he called for a vote, and all approved.*

◆ Rulemaking and Policies Rules

Vice Chair Weick noted that decision on any motion would wait until after the contracting and procurement policy discussion under Old Business.

◆ Budget Rule

Vice Chair Weick moved to amend budget rule to reflect Scenario 2 on the Draft amended budget for 2011-2013 presented in the work session, with revised revenue and expenditure amounts of \$485, 122 revenue and \$484,099 (respectively). Stroud seconded. Chair Yinger called for discussion. Hearing none, he called for a vote, and all approved.

◆ Other

Vice Chair Weick presented the issue about a “statute of limitations” type standard for complaint cases that he first raised during review of meeting minutes. He stated that he would like to see a timeframe for filing a complaint with the Board regarding a geologist’s work and proposed that the Board consider whether such a limit can be adopted in rule or policy. He suggested that 10 years might be a reasonable timeframe to consider. The Board discussed whether this would be protective of public health, safety and welfare. The Board talked about when older work might come up in relation to a recent construction project and when such information might be important to evaluate a pattern of practice. Valentine noted that input from legal counsel would be advisable to determine Board authority to adopt such a policy. Heinzkill, Jarvis, and McConnell felt that there is not currently a problem that needs to be addressed, although Heinzkill noted that he could possibly agree to a ten year limit. Stroud thinks there could be reason to look at older work, depending on the situation. Yinger said he was not sure but was open to getting an opinion from counsel. Valentine was asked to explore the issue with counsel.

Joint Compliance Committee

Weick

Weick summarized that the JCC has not met so there was nothing new to report. Valentine summarized some issues that are either directly or indirectly related to JCC, acknowledging that the Board may want to address some outside of the committee report. She mentioned that a placeholder agenda items was included under New Business, Item c. for this purpose.

- The Board needs to consider OSBGE representation to JCC with Weick leaving the Board. Stroud is the other Board member representative at this time. The Board may also want to again consult with Peterson about his willingness to continue on the JCC.
- The JCC is formed to discuss complaint cases. There is not a forum for discussion between the two boards about other issues, such as the scope of practice issues as raised by a former Board member (and included in the New Business section of the meeting packet).

Weick agreed that the JCC is not a good forum for general discussion of CEG/PE overlap. He felt that when scope of practice was debated in general terms at past JCC meetings those conversations were ultimately unproductive. All agreed that this issue of another discussion forum with OSBEELS is a subject for possible future discussion.

Legislative Committee

McConnell updated the Board on the process to pursue legislation for an immunity clause. Legislative Counsel completed its review of the Board's Legislative Concept and made some modest changes to the language but nothing that appreciably changes intent or scope. After consultation with the Legislative Committee Chair, Board Chair, and AAG, the Administrator notified Legislative Counsel and DAS that the Board accepts the revisions. The concept is now known as Legislative Concept 0389. A copy is included in the meeting packet. Next steps are:

- File one page summary of the legislation with DAS. A placeholder draft has been filed. This will be replaced with a final version after the meeting to incorporate any revisions requested by the Board. Board members were given until October 1 to provide comments to the Administrator.
- Governor's Office announced that they will meet with all agencies about LCs this fall as part of their process to make final decisions about legislation to submit for the 2013 session at the request of the Governor.
- Identify and communicate with key legislators about the proposed legislation. This has been on hold due to the continuing process with the Governor's Office and uncertainty of fall elections and legislative committees, etc. (Note: Past bills have been started in Senate.)

Outreach Committee

Jarvis referred the Board to the newsletter article and the comments received. Weick and Jarvis noted that universities are increasingly merging geology and geography programs. Jarvis thinks that any issues with ASBOG exams can be resolved. Stroud noted that it would be good to explore this idea further at an ASBOG Council of Examiners to see if others are willing to think about this. McConnell mentioned that the Board has looked at this issue a bit in the past in terms of geomorphology, especially work going on in coastal areas. Yinger mentioned an effort in Washington State to establish professional licensing for wetland scientists, which has so far been unsuccessful. Weick wondered if the Board should look at starting a longer-term process to restructure licensing to also cover geography in some manner. All agreed that a person majoring in geography can currently obtain registration by passing ASBOG and requesting review of specific courses. Jarvis noted that some action will likely be required as the last 5 years have brought dramatic changes in how courses are offered and the collapse of geology departments across the country. No next steps were specifically identified by the Board at this time.

Professional Practices Committee

McConnell noted that there was nothing to report for this committee.

Chair Yinger called for a break at 2:44 PM. He reconvened the meeting at 2:55 PM.

Correspondence

Ordinance review request, City of Wheeler

The Board was joined at this time by a guest, Ms. Sabrina Pearson, representing the city of Wheeler where she serves as planner. She wanted to be present to address any questions Board members may have about the city's proposed ordinance. Stroud introduced how the Board has been considering the city's request for input. Valentine noted that the meeting packet contains e-mail correspondence from Ms. Pearson and a draft response letter. Valentine explained that the response letter was drafted in an attempt to facilitate timely response by the Board but that it needs to be carefully vetted to be sure it reflects what the Board would feel comfortable saying about scope of practice for CEGs vs. professional engineers (PEs). She further explained that the city's request was regarding a newly proposed ordinance section (6) but that the response also proposes a clarification for an existing ordinance section (1) that addresses site reports.

Ms. Pearson explained that she also works for Bay City and other small cities on the northern Oregon coast. Her role as planner is to help make sure the right professionals are involved in development reviews and that the right reports are requested and obtained. The work on ordinances started with a 2005 project for the city of Bay City, and Wheeler is building from there. She explained that the city adopted ordinance changes recommended by OSBEELS and is willing to further amend the ordinance to address recommendations from OSBGE. McConnell requested clarification on which changes tentatively proposed by OSBGE have already been incorporated, and Ms. Pearson pointed this out.

Vice Chair Weick noted that most professional engineers (PEs) are not able to evaluate geologic hazards. A CEG is needed to evaluate geologic hazards in relation to proposed development. He further stated that either a CEG or PE can determine soil strength and related characteristics. He suggested that who should and can identify grading and foundation designs is a gray area of practice overlap. He also commented that hydrology (related to stormwater design for example) is not addressed in what Stroud and Valentine drafted. The Board proceeded to discuss the challenges of overlap between CEGs and PEs with Ms. Pearson. McConnell asked if the language could be more specific as to the type of engineer, but the Board then remembered that this may be problematic given how OSBEELS licenses. Vice Chair Weick suggested that the city could say the engineer has to have qualifications in geotechnical sciences and leave it to the PE to prove his qualifications to the city. Ms. Pearson said the city encourages individuals to ask professionals they propose to hire about what types of projects they have worked on in the past.

The Board concluded that it would suggest that the city require a team of a CEG and PE. McConnell suggested that any specific language offered by OSBGE about the CEG vs. PE question needs to be pared down for what goes in local ordinance. Heinzkill suggested that the first sentence in the draft response paragraph could go in ordinance with the rest serving as guidance or definition. All members ultimately agreed with that approach.

Chair Yinger and Vice Chair Weick suggested the following specific language for Ordinance Section 1 that says: "A site investigation report addressing geology and soils shall be prepared by a team that includes a CEG and a professional engineer qualified in soil or geotechnical sciences." Vice Chair Weick thought this would allow for the details about what a CEG or PE scopes of work would not have to be detailed in the ordinance as the city would be requiring a team approach. Stroud suggested the Board provide some basic guidance about roles of CEGs vs. PEs. The Administrator was directed to redraft the response letter, have Stroud and Weick review, finalize and send to city with copy to OSBEELS. In closing, McConnell applauded the city and

staff for working on this due to importance of the issue for coastal communities. Ms. Pearson thanked the Board for its time and left the meeting at 3:34 PM.

Old Business

Board Policies-Procedures

Valentine referred the Board to the final draft policy stating that this incorporates comments received from Board members. She suggested that the policy is now ready for final Board action. Chair Yinger asked if there were any questions for Valentine about the policy. Stroud had a few questions about procurement threshold, personal service contracts, and amendments which were addressed. Valentine noted that the policy is modeled on state procedures, and there are restrictions built in regarding amendments. *McConnell moved to adopt the contracting and procurement policy as presented. Jarvis seconded. Hearing no further comments, Chair Yinger called for vote, and all approved.*

Vice Chair Weick referred back to the work session discussion about deleting rules that adopted old versions of personnel, contracting and procurement policies. Valentine summarized what types of policies are currently addressed in administrative rules. *Vice Chair Weick moved to authorize issuance of rulemaking notice for OAR 809-001-0000, 809-001-0020, 809-001-0025, and 809-001-0030 as provided in proposed updates document contained in the September 21, 2012 work session packet. Stroud seconded. Hearing no further discussion, Chair Yinger called for a vote, and all approved.*

Valentine next referred the Board to the draft records management and retention policy in the meeting packet. She reminded the Board that state law now requires the Board to adopt a policy and further mandates that the State Archivist review the policy before it is adopted by the Board. She wanted to discuss the policy, at least briefly, with the Board before initiating the review by State Archives. The Board supported moving forward with the review by Archives. Vice Chair Weick proposed that the Board look into having an intern brought in to help with review of old records. Valentine agreed to look into idea of an intern.

Action List Review

Valentine noted that she provided a list of pending or in process items and not completed actions per the Board's request at the last meeting. The Board discussed various items on the list and specifically requested the following updates: remove heating oil tank cleanup correspondence and experience standards rule from the pending/in process list.

Newsletter

Valentine stated that she has started work on the Fall 2012 newsletter. She may be in need of a cover article. She is working with Vice Chair Weick on an article about volunteering for the Board that could go in as the cover article. McConnell mentioned that DOGAMI has just published a new paper and discussion of this might make for a good article. She will review the paper's abstract to see what she can forward to Valentine.

Candidates for Board Membership

Valentine noted that she has contacted six registrants that may have some interest in serving on the Board. One individual self-identified in response to the Summer 2012 newsletter article. The others are individuals that Board members Jarvis and Stroud identified. All have been provided with some basic information about Board membership and encouraged to consider attending a Board meeting. Of the six, five work in public agencies and one in a private consulting firm, two

are CEGs, four RGs. Initial registration dates range from 1990 to 2007. None have a compliance history with the Board.

Valentine noted that it would likely be in the best interest of the Board to encourage interested registrants to submit applications ASAP. The appointment process can take some time, and this may be exacerbated with the Governor's Office preparing for the 2013 Legislative session. She suggested the Board think about what it would recommend to the Governor's Executive Appointments office in the event of multiple applications from qualified registrants. The Board briefly discussed whether it should state a preference for either a RG or CEG to fill Weick's position. The decision was that the Board is neutral on this matter.

New Business

Officer Elections

OAR 809-001-0010 *Election of Officers: The Board may elect a Board Chairman and Vice Chairman once a year at the first board meeting held after July 1.* Vice Chair Weick will not be able to complete another 1 year term. The Board will need a new Vice Chair. After some discussion about the rule and why it identifies this meeting for elections, the Board decided to delay further discussion and elections to its December 7, 2012 meeting.

OR/WA Meeting – CEG Examination

Valentine

Valentine referred the Board to the outline included in the meeting packet. The two boards have not met for several years to discuss the administration of the CEG exam. The interagency agreement between the two boards expires at the end of this biennium. Time is of the essence, as it will take some time to bring new participants up-to-speed and to get a new agreement through the review processes on both sides. Vice Chair Weick and Jarvis were identified as the OSBGE board member representatives. Valentine will work with them and the WA delegation on scheduling of the meeting.

OSBGE/OSBEELS Coordination

Valentine

This agenda item was a placeholder to discuss input from a former board member and other issues related to practice overlap. Due to time constraints, the Board was not able to fully discuss the correspondence from the former Board member. Practice overlap involving OSBGE-OSBEELS was addressed to some extent under the JCC and Correspondence agenda items.

ASBOG COE/Annual Meeting Attendance

Yinger

The Board determined that Vice Chair Weick will attend the annual meeting and Council of Examiners in Omaha, Nebraska on behalf of the Board. Valentine will work with Weick on the required paperwork.

ASBOG/CEG Exam Proctors

Valentine

Valentine stated that staff will need assistance with proctoring exams; we need two proctors in the room with ASBOG candidates (all day) and one proctor in a separate room with CEG candidates (AM only). Stroud agreed to proctor the CEG. Yinger agreed to proctor the ASBOG exams.

Upcoming Presentation – Portland State University

Jarvis and Valentine will work on updating old PPTs for this outreach event.

Administrator Performance Appraisal

Yinger explained the process used to work with OSLAB on the performance appraisal for the Administrator. He noted that the review was very positive. Valentine thanked the Board for its support. She further explained that she also completed a performance appraisal in July for the registration specialist and that it also was positive.

Public Comment

Yinger

Chair Yinger noted that public comment was accommodated earlier in the meeting and that no guests remained at the meeting.

Announcements

All

- a. October 5, 2012 – ASBOG & CEG Exams
- b. October 31-Nov. 3, ASBOG COE/Annual Meeting
- c. December 7, 2012 Meeting – includes PSU Outreach Event

Chair Yinger adjourned the meeting at 4:35 PM.

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

Christine Valentine, Administrator