

MEETING MINUTES

OREGON STATE BOARD OF GEOLOGIST EXAMINERS

September 14, 2006

Conference Room, Sunset Center South, Salem, Oregon

Members Present

Christopher Humphrey, RG, CEG
Vicki McConnell, Ph.D., RG, State Geologist
Allen Morris, Public Member
Gary Peterson, RG, CEG Board Chair
Steve Taylor, Ph.D., RG
Eileen Webb, RG, Vice Chair

Staff Present:

Susanna Knight, Administrator

Guests Present:

Mike Carrier, Governor's Natural Resources Policy Director (arrived 11:00 AM; departed 11:45 AM)
James R. Farrow (arrived at 9:30 AM; departed at 3:45 PM)
Dorian Kuper, RG, CEG (arrived at 10:30 AM; departed at 2:10 PM)
David Michael, RG, CEG (arrived at 11:30 AM; departed at 1:30 PM)

The meeting was preceded by a Work Session that convened at 9:00 AM with the following discussion items:

- The Board discussed the most current edition (9/4/2006 draft) of THE WHITE PAPER and offered their appreciation to *Humphrey* for his efforts to bring organization to the document. After a page by page review, all members turned their paper copies with comments over to *Humphrey* for his review and additional revision. He will contact Board members individually if he has additional questions.
- At 11:00 AM, the Governor's Natural Resource Policy Director Michael Carrier joined the Board to meet and interact with the Board about Natural Resource issues important to geology practitioners and the Governor. Mr. Carrier talked about the Governor's Regulatory Streamlining efforts and commented that the Geology Board appears to be "lean and mean". He shared that he signed off on our draft legislation for the 2007 Legislative Session which will revise our compliance procedures and offered to be available for other issues that might face the Board. The Board thanked him for taking time from a busy schedule to meet with them.
- The Board welcomed former Board Members Dorian Kuper and David Michael who joined the group to celebrate the tenure of Gary Peterson, as today is his last regularly scheduled Board meeting.
- The Board continued on with a discussion of the draft Matrix prepared by *Taylor* and distributed at the last meeting. The matrix should answer the question: Is this something you are qualified to do? *Peterson* stated that he is not supportive of such an approach that quantifies practice arenas that are broad based. He observed such an effort in another state and found it to be a divisive approach because it failed to quantify overlap practice arenas.
- The ongoing Coastal Processes was brought to the table. The question was asked: what would the carrot be for taking classes on coastal processes? Would the Board have a role? Could the Coastal communities be able to establish requirements for practitioners? Would the Geology Board be interested in participating in a tech transfer training at the Coast? The next Coastal Processes Working Group is scheduled for November 9, 2006. *Peterson* will continue to participate in this process and report back to the Board.

The meeting was called to order by *Chair Gary Peterson* at 1:14 PM.

- I. APPROVAL OF AGENDA: No additions or corrections to the agenda were offered.
- II. APPROVAL OF MINUTES:
 - A. *Webb* moved to approve the minutes of the March 9, 2006, meeting as presented. Second and passed: *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.
 - B. *Webb* moved to approve the minutes of the June 2, 2006 meeting as presented. Second and passed: *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.
- III. ANNOUNCEMENTS:
 - A. Board exams will be administered on Friday, October 6, 2006. *Peterson* will serve as proctor for the CEG examination. *Taylor* will proctor the national ASBOG practice section. *Morris* will confirm his availability to Knight for proctoring the ASBOG fundamental examination.
 - B. The national ASBOG meeting is scheduled for Saturday, November 4, 2006. Due to scheduling conflicts, *McConnell* will be unable to participate in this event. *Taylor* will serve as the Board's delegate.
 - C. *Taylor* will be participating in the Council of Examiners (COE) for the fundamental examination on November 1 and 2, 2006. The second participant for the practice section of the COE has not yet been appointed.
 - D. A meeting location site for the next Board meeting to be convened at Western Oregon University in Monmouth, Oregon, on December 1, 2006, has been arranged by *Taylor*.
- IV. REPORTS
 - A. Office Report
 1. In lieu of a written report (AR2006-03), *Knight* updated the Board on the following:
 - a. The biennial financial audit was released and a copy was issued to each Board member. *Peterson* noted one instance of non-compliance as reported on page of the document. He stated that any funds over \$100,000 must be secured by a Certificate of Participation (COP). The Board holds a COP, but for a brief period of time, pending purchase of Certificates of Deposits, the funds in the account were over the COP amount.
 - b. The Administrator's annual review was recently completed by the Board Chair.
 - c. *Knight* requested a Budget Committee be appointed for preparing the 2007-09 draft budget. *McConnell* suggested a standing committee of the Board Chair and the State Geologist. Board Members concurred.
 - d. *Knight* reported that the ASBOG exam count is up over the spring administration, primarily because California does not administer the fall examination. Because of the larger number, the exam will be administered in Room 101 of Building 49, with 27 fundamental and 19 practice examination candidates. Three candidates are scheduled for the engineering geology examination.
 - e. *Knight* reported that SIBA (Semi-independent Board Association) met Wednesday, September 13. SIBA discussed whether they should alert members of a semi-independent Board if SIBA becomes concerned about issues surrounding the administration of a Board.
 2. Budget updates

- a. *Knight* distributed a Balance Sheet as of August 31, 2006. The checking balance is \$115,243.95. In addition, the Board owns three \$20,000 Certificates of Deposit. An email was distributed with updates on the CDs' status and interest earned.
- b. *Knight* distributed a report titled BUDGET VERSUS ACTUAL FOR REVENUE AND EXPENSES for the first year of the biennium (7/1/2005 to 6/30/2006). The report revealed that a \$21,000 payment was received covering the 2004-05 contract with the Landscape Architect Board. Bank interest income was \$1300 more than budgeted. *McConnell* inquired as to the regular employee salaries being "under budget". *Knight* will research this question. The Board's legal fees were substantially over the budgeted dollars due to attorney costs associated with the recent registrant revocation hearing. The computer data base development costs have not yet been expended but that work is underway.

B. COMMITTEE REPORTS

1. CEG EXAMINATION COMMITTEE: *Humphrey* indicated that he had not participated in the meeting reported for August 17, 2006, with the Washington Board. *Knight* and former Board Member David Michael represented the Board in this meeting with representatives of the Washington Geology Board. Washington and Oregon have together developed the Engineering Geology examination. This October will be the first administration by Washington of this examination.
2. CEG GUIDELINE COMMITTEE: *Peterson* stated that he had nothing new to report. He will attend the Coast Working Group meeting on November 9, 2006, and will bring this coastal guideline issue to them.
3. COMPLIANCE COMMITTEE: *Morris* directed the Board to the handout listing outstanding compliance cases and reported the following:
 - a. A geology registration revocation hearing [CC#03-03-002 and CC#04-07-004] was held on May 24 & 25, 2006. The Administrative Law Judge's (ALJ) Proposed Order was released on August 9, 2006. Exceptions to the ALJ's Proposed Order must be presented by September 14, 2006. The Board will convene in a Special Meeting on September 29, 2006, at 8:00 AM to meet with the Assistant Attorney General to deliberate on the Proposed Order and any exceptions.
 - b. The Joint Compliance Committee is reviewing CC#06-01-003, a complaint against The Galli Group. The Board of Examiners for Engineering and Land Surveying (OSBEELS) is taking the lead on this complaint, as the project was completed by a Professional Engineer (PE).
 - c. CC#06-02-004 is currently under review by both OSBGE and OSBEELS as both the practice of geology and the practice of engineering are represented in this report. A watershed report was completed by two different consultants, neither of which are registered by either Board. *Taylor* stated that watershed reports often have a phase I and a phase II. The phase I report is generally an assessment of the issues but could be evaluated as a practice issue in violation of regulatory statutes.
 - d. A motion is on the table from the March Board meeting to issue a NOTICE OF INTENT (NOI) in CC#06-02-005. However, the investigation is ongoing and a notice has not yet been drafted. When the follow-up reports from peer

reviewers are processed, the Compliance Committee will work with staff in the development of the NOI.

- e. *Taylor* summarized his review of CC#06-04-006. He researched the Soil Matrix License (SML) issued by DEQ and stated that work under this license could overlap with the practice of geology. However, one cannot practice geology with an SML unless they are also registered as a geologist. The report writer argued that the report was a draft document, not a final report, and hence not eligible for review by the Board. But the Board noted that there was no indication on the document that it was a draft. *Morris* moved to issue a LETTER OF CONCERN to the respondent about the requirement for an RG to stamp work that is the practice of geology. *Seconded*. Additional discussion concurred that the letter should be cc'd to DEQ along with a cover letter about the Soil Matrix license. DEQ should be reminded that they are a gatekeeper for the Board. *McConnell* stated that this should be a teachable letter, not a punitive letter. *Webb* asked that the letter include an offer to assist DEQ with this issue and that this letter be cc'd to the Underground Storage Tank Manager. Motion passed. *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes. Additional discussion about DEQ and OSBGE followed.
 - *Webb* shared that she and Knight met with approximately 20 DEQ Project Managers in Portland at the invitation of Al Tippet.
 - There are two camps at DEQ: RGs that understand the importance of registration and employees intimidated by developing a relationship with OSBGE.
 - OSBGE needs to develop a relationship in each DEQ region.
 - *Peterson* stated that the Board should repeat attendance at the Project Manager meetings.
 - An article about this case must be included in the newsletter.
 - f. *Humphrey* reviewed CC#06-05-007 and will prepare a written report to forward to all Board members following the conclusion of the revocation hearing.
4. GEOLOGY REPORT GUIDELINES COMMITTEE: *Webb* reported that the committee is up and running. A member drove from Everett, Washington for the initial meeting in which the Table of Contents was developed. A backup committee exists for reviewing the initial draft. The next step is assigning the sections for writing and the backup committee could be called upon for writing some of these sections.
 5. JOINT COMPLIANCE COMMITTEE: *Peterson* reported that the JCC met in OSBGE's Conference Room on August 30, 2006. Draft minutes of the meeting were then distributed to the Board and discussed with the Board. *Peterson* stated that the JCC concluded that watershed work has both engineering and geology components. The committee will meet again in January of 2007 per the Memorandum of Understanding which states that the JCC will meet two times each year at a minimum. The JCC also met in January 2006. OSBGE appointees to this committee will be determined when *Peterson's* replacement on the Board is known.

6. LEGISLATIVE COMMITTEE: *McConnell* stated that there is no report now but that there will be more information as we get closer to the session that begins in January of 2007.
7. OUTREACH COMMITTEE: *Taylor* reported on the following:
 - a. University outreach will occur when the Board meets on the campus of Western Oregon University for the December meeting. A group will be invited to join the Board at approximately 11:30 AM to talk about who the Board is and what they do, followed by lunch which will allow time for interacting.
 - b. The poster for locating in university career departments and brochure for distributing to interested parties are coming along.
 - c. *Knight* indicated that the LOC and AOC will be meeting in two weeks in Portland. The Board had hoped to have a presence but is not scheduled for this year. *McConnell* suggested that *Knight* make an attempt to observe the event to determine how the Board can approach this venue in the future.
8. PROFESSIONAL PRACTICE COMMITTEE: *Humphrey* reported on two items.
 - a. The White Paper was reviewed during the AM work session. The hand written updates presented by Board Members will be incorporated in the draft document and members will be contacted individually if he has questions about their additions. The goal is to have the draft document on the web site by December 1, 2006.
 - b. A spreadsheet with information about Continuing Education by state as provided on the ASBOG website was distributed. Nine states, approximately 24% of ASBOG membership, currently have some type of continuing education requirement. *Webb* stated that AIPG requires continuing education for annual renewal. *Knight* offered to bring this item to the agenda for the Administrators at the national meeting and seek input. The Board agreed that much research and groundwork is needed and thanked *Humphrey* for his research and leadership in this area.
9. RULES COMMITTEE: *Webb* directed the Board to three handouts that presented revisions for three different Administrative Rules. She stated that the Advisory Committee had reviewed these and there were no objections.
 - a. *Webb* pointed out that the revision to OAR 809-020-0025 will change the current window of time for responding to Board requests from 30 days to 21 days. *Webb* moved to revise the language in OAR 809-020-0025 as presented. Second and passed: *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.
 - b. *Webb* pointed out that the revisions to OAR 809-015-0005 and OAR 809-015-0010 replace the term lapsed with the term expired which is currently used in statute. *Taylor* moved to revise the language in OAR 809-015-0005 and OAR 809-015-0010 as presented. Second and passed: *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.
 - c. *Webb* stated that two fee changes are introduced in the rule revision for OAR 809-010-0001. The charge for a replacement registration card is increased from \$3.00 to \$10.00 and a \$50.00 fee for a list of current registrants is added. *Webb* suggested that the fee for replacing a pocket registration card should be

increased to \$25.00 as a minimum fee stance. The Board discussed other \$10.00 fees. Does this mean they also should be changed to a \$10.00 minimum fee? Due to time limitations, this rule was tabled for future discussion.

V. CORRESPONDENCE

- A. The Board discussed an email (AC 06 06 193) from an individual that received a LETTER OF CONCERN from the Board in response to a case reviewed by the Joint Compliance Committee (JCC). *Peterson* stated that this email was presented to the JCC and they recommended that no response is necessary and that this case will not be revisited by either Board. No action was taken by the Board.
- B. James Farrow was present to plead his case (AC 06 07 205) to waive the ASBOG examination requirement for registration in Oregon as he has been working in California since 1990 and passed the California registration examination the year before they adopted ASBOG. In December 2005, he moved to Oregon and subsequently contacted the office about reciprocity. He was directed to the Cooperative Registration rule which defines the ASBOG examination as the entrance examination for registration in Oregon. A discussion began about possibly changing this rule. *Knight* directed the Board to the Action List item dated 6/10/2005 about discussing this as a retreat item. *Taylor* stated that the national examination is quite defensible should the need arise, but what about exams administered by other states? *Peterson* thanked Mr. Farrow for attending and stated that the Board does not like to deny registration and does respect his experience and background. [Farrow left the meeting.]

Taylor moved to require the ASBOG examination for registration. Second and passed: *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.

- C. The Board discussed a question regarding whether a supervisor can require a registrant to stamp non-geologic reports (AC 06 07 269). The Board concurred that the geology law does not address this question and they are unclear about an RG stamping non-geologic work. If it is not geologic work and a complaint comes to the Board, does the Board have any authority? The Board has no precedent for work that is stamped but is not the public practice of geology and is unsure as to the nature of this question. The Board does not regulate the handling of contaminated soils, groundwater or other hazardous materials. Is this question being asked because the work could be a natural extension of geologic work? Is this an ODOT standard? *Knight* will draft response.
- D. The Board discussed an email from a Registered Geologist (AC 06 08 262) in response to a follow-up review of a former compliance case. The Board determined that no further action is necessary.
- E. The Board concurred that this correspondence (AC 06 08 279) is a request to allow registration in Oregon without examination based on registration acquired in another state at the time Oregon was beginning registration. *Taylor* moved to inform the individual that the ASBOG examination is required for registration in Oregon. Second and passed: *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.

VI. OLD BUSINESS

- A. Board Members *McConnell* and *Taylor* reported and concurred that the ASBOG Council of Examiners (COE) held in Houston, Texas on April 3 & 4, 2006, was a very interesting

and exciting experience. They shared that a discussion was led by the psychometricians Jack and Steve Warner regarding the hydrogeology weighting of the exam and informed the Board that an adjustment of the content for the October 2006 examination has occurred. Separate domains exist for the fundamental and practice sections of the test and therefore continued separate weighting. The Board reflected on the memo recently reviewed regarding the application of the Task Analysis to the fundamental examination.

- B. *Webb* stated that in 2004, Oregon presented a Resolution to the National ASBOG meeting requesting that ASBOG fund the COE. A Survey Monkey was recently completed and the results of that survey are included in your packet. *Webb* stated that because the answers to the survey did not overwhelmingly support that ASBOG fund the COE, the status of the resolution is questionable. *Webb* suggested that the Oregon delegate for the 2006 ASBOG National meeting, *Taylor*, contact the Washington Board member Ken Neal to determine how to work through this Resolution and to secure that it will be on the agenda.

VII. NEW BUSINESS

- A. Per OAR 809-001-0005, a ballot of *Webb*, Chair and *Taylor*, Vice Chair was presented for the Board's approval. *Webb* has served as Vice-Chair for the past two years. Because her term of appointment as a Board Member ends in February 2008, she will be available as Chair for one full year. The Board discussed the opportunity for the State Geologist to serve as Chair and asked if any other Board Members would like to be considered for office. No changes were made to the ballot. *Morris* moved to accept the slate of officers as presented. Seconded and passed. *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.
- B. *Knight* explained that two California applicants for Oregon registration have met all Oregon requirements except the Cooperative Registration requirement to be currently registered in another state. Because OAR 809-050-0010 requires that Cooperative Registrants hold an active registration in another state, *Knight* was unclear how to act on these applicants. *Webb* moved to approve Oregon registration for Melissa L. Pleva and Obiajulu Nzewi based on meeting the education, experience, and examination requirements established for Oregon registration. Seconded and passed. *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.
- C. *Knight* stated that our AAG is completing additional research on the current Board policy of applying a stipend to Board Members and requested that this discussion be tabled to the next Board meeting.

VIII. ITEMS FOR BOARD ACTION

- A. *Webb* moved to approve the check log from #2362 to 2444 and #9035 to 9044. Seconded and passed. *Humphrey*, yes; *Morris*, yes; *Peterson*, yes; *Taylor*, yes; *Webb*, yes.
- B. *Humphrey* stated that THE WHITE PAPER would be posted on the web page by the next Board Meeting.

- IX. PUBLIC COMMENT: *Knight* stated that on behalf of the Board, in this final, regularly scheduled meeting during the tenure of Board Member *Gary Peterson*, she would like to recognize and thank Gary for his six years of service to the Board. *Knight* then read the inscription on the plaque presented in thanks of his service.

Peterson stated that although his replacement has not been named, he anticipates the announcement will be made before his term ends on October 31, 2006. He has gained an appreciation of what it means to be enforcing the laws of the State of Oregon and has enjoyed his time on the Board.

Chair Peterson adjourned the meeting at 5 o'clock PM.

Respectfully submitted,
Susanna R. Knight
Administrator

The Minutes of the September 14, 2006, Board Meeting were approved as presented at the December 1, 2006 Board Meeting.

Susanna R. Knight, Administrator