

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

Meeting of August 20, 2004
William P. Hobby Jr. Building
333 Guadalupe, Texas Department of Insurance Hearing Room 100
Austin, Texas

Summary of Minutes

The Chairman called the meeting to order at 10:50 a.m. August 20, 2004 as per Agenda Item A.

The Chairman moved to Agenda Item B., Roll Call and Certification of Quorum. The roll was called by Secretary/Treasurer, Rene Pena. Members present were Chairman W. Kevin Coleman, Vice-Chairman Edward G. Miller, Secretary/Treasurer Rene Pena, Kimberly Phillips, Dr. Murray Milford, Gordon Ware, and Danny Perkins. A quorum was certified by the Secretary/Treasurer as per Agenda Item B. Members Kelly Krenz-Doe and Sheila Hall were absent.

The Chairman moved to Agenda Item G., Introduction of Board Contract Personnel, Presentations and Discussion. Diane Fulmer briefed the Board with an explanation of Agenda Item O., the Legislative Appropriations Request (LAR). Ms. Fulmer explained that the baseline request for spending authority for 2006-2007 biennium was low due to the return of enforcement funds not expended in 2004-2005. She added that these funds not utilized would now have to be returned to the general revenue and that the agency's request for funding in its LAR would not be able to exceed more than 95% of those funds spent in 2004-2005 meaning the agency has a \$143,000 reduction. She assured the Board that she would closely monitor the exact lapsing of the 2004 funds since it was less than estimated and that the baseline budget for the 2006-2007 biennium would be revised accordingly.

The Chairman moved to Agenda Item H., Update on Financial Matters. Vince Houston, Chief Financial Officer gave an update on both the agencies revenue collected year-to-date and the total funds which would be returned to general revenue.

The Chairman moved to Agenda Item C., Absences of Board Members - Discussion and possible action. A motion was made by member Rene Pena and seconded by member Dr. Murray Milford to excuse Vice Chairman Edward Miller, and member Kimberly Phillips for their absence at the May 24, 2004 meeting. The vote passed unanimously. A motion was then made by member Kimberly Phillips and seconded by member Rene Pena to excuse members Shiela Hall and Kelly Krenz-Doe for their absence of the August 20, 2004 meeting being held. The vote passed unanimously.

The Chairman moved to Agenda Item D., Approval of minutes of the May 24, 2004 Board meeting. A motion was made to approve the May 24, 2004 minutes by member Dr. Murray Milford and seconded by member Gordon Ware. The motion passed unanimously.

The Chairman moved to Agenda Item E., Public Comment. No public comments were made.

The Chairman moved to Agenda Item F., Introduction of Representatives of Other State Agencies, Presentations and Discussion. There were no representatives of other state agencies present.

The Chairman moved to Agenda Item I., Update on Strategic Plan. Member Gordon Ware briefed the Board by indicating that the Strategic Plan was prepared and completed. Executive Director, Mike Hess added that the Strategic Plan reflects the LAR as noted in Ms. Diane Fulmer's presentation, specifically the enforcement projections. He and member Gordon Ware gave special thanks to the Board

for their contributions to the Strategic Plan and added that their input had been incorporated within its content.

The Chairman moved to Agenda Item J., Update on Memorandum of Understanding (MOU) between TBPG, Texas Board of Professional Engineers (TBPE), and Texas Commission on Environmental Quality (TCEQ) - Discussion. The Chairman informed the Board that he had been in contact with Donald Willhouse from the Texas Board of Professional Engineers, who had a draft MOU. A copy of the draft would be given to Vice Chairman Miller, who was currently dealing with several unresolved technical issues. For this reason no presentation would be given to the Board at this time. Chairman Coleman added that the Engineering Board recommended a three way MOU.

The Chairman moved to Agenda Item K., Update on Status of Continuing Education Rules - Discussion. Vice Chairman provided the Board with a continuing education program handout modeled after the Engineering Board with a few modifications. He suggested that each member review the handout and a continuing education program for agency be placed on the agenda for discussion and possible action at the next Board meeting. Discussion followed and a recommendation was made to place the potential continuing education program on the TBPG website for comment from the industry population. Michael Hess, Executive Director, also suggested that an all day public meeting be scheduled regarding the continuing education program for input from the public and licensed population.

The Chairman moved to Agenda Item L., Update on Enforcement - Discussion. Vice Chairman Miller discussed the possibility of auditing TCEQ's files for the purpose of validating whether geoscientists were signing and sealing submitted reporting documents. Executive Director, Mike Hess, suggested that he conduct the audits at TCEQ. TBPG staffers informed the Board that clarification was needed regarding the sealing of documents. Discussion followed.

Vice Chairman Miller emphasized that the rules had been written on what enforcement action the Board could take, but that the Board needed written in-house policy of what level of enforcement the Board would and could impose against violators. He suggested a letter of notice be sent to first time violators and felt that the Board would need to discuss what level of enforcement action would be taken against repeat violators. Member Danny Perkins echoed the same opinion that enforcement policy needed to be written, implemented and exercised more strongly.

Vice Chairman addressed staffer concerns about the questions regarding the sealing by recommending to staff that the caller be referred to the rules or statute.

The Chairman moved to Agenda Item M., Update on Geophysics Exam - Discussion. Executive Director Mike Hess reported that there had been no change to the Geophysics Exam and that no one had requested to take the exam.

The Chairman moved to Agenda Item N., Update on Out-of-State Travel - Discussion. Executive Director Mike Hess reported no change from the last Board meeting. Requests for the two upcoming trips to Seattle, Washington and Boise, Idaho had been submitted back in March to the Legislative Budget Board and the Governor's Office. He added that he was currently awaiting approval from the Legislative Budget Board regarding the agency's out-of-state travel funding.

The Chairman moved to Agenda Item P., Election of Board Officers for Fiscal Years 2005-2006. The Chairman opened the floor for nominations. A motion was made by Vice Chairman Ed Miller to nominate and re-elect Chairman Kevin Coleman to a second term and seconded by member Gordon Ware. With the motion and nomination made for re-election, Chairman Coleman passed the control of the meeting to Vice Chairman Miller. A motion for nominations to cease was made by member Dr.

Murray Milford and seconded by member Rene Pena. The vote for nominations to cease passed unanimously as well as the vote to re-elect Chairman Coleman for a second term as chairman. The Chairman then opened the floor for nominations of Vice Chairman. A motion was made by member Gordon Ware to nominate and re-elect Vice Chairman Ed Miller to a second term and seconded by member Dr. Murray Milford. The vote to re-elect Vice Chairman Ed Miller to a second term as vice chairman passed unanimously. The Chairman then opened the floor for nominations of Secretary/Treasurer. A motion was made to nominate and re-elect Rene Pena for a second term by member Kimberly Phillips and seconded by member Danny Perkins. A motion was made that nominations cease by member Danny Perkins and seconded by member Murray Milford. The vote for nominations to cease passed unanimously as well as the vote to re-elect Rene Pena to a second term as secretary/treasurer.

The Chairman moved to Agenda Item Q., Executive Session under Section 551.074, Texas Government Code, Discussion of Personnel Matters and elected to conduct discussion on this agenda item last.

The Chairman moved to Agenda Item R., Executive Director's report to include discussion and update of the agency's progress. Executive Director, Mike Hess, addressed the Board's concerns regarding the return of funding due to the agencies enforcement deficiencies and the possible relocation of the agency to another larger and more comfortable state facility currently occupied by the Texas Residential Construction Commission. He informed the Board of his plans to move the agency's servers to another more permanent location, his ongoing research to obtain a document imaging provider which would allow for more current office space and his intentions to contract with a live web cast provider for future board meetings. Executive Director Hess highlighted the fact that up-do-date one-third of the industry's population had renewed their licenses on-line and that the Texas Board of Professional Geoscientists was not only leading but setting records of on-line renewals with their new service provider, TexasOnline. He informed the Board that Marty Denman, Executive Assistant, had mailed out sixty-five (65) packets to potential geology candidates requesting to take the upcoming ASBOG exam scheduled for October 8, 2004 indicating a marked increase in interest to take the ASBOG exam in comparison to the four (4) candidates who took the first ASBOG exam in March of this year. Executive Director Hess noted that his primary focus would be on obtaining adequate appropriations for the agency as it embarked on its second year of operation and that he anticipated attending numerous hearings regarding the agency's independence and efficiencies leading well into next year's legislative session. He requested that the Board inform him of any past Senate or House bills and/ or riders that would impact the agency. He stated that he would be placing future emphasis on "**quality**" for the agency's rules development, creation of guidelines for one-time temporary licensure, and enforcement implementation.

The Chairman moved to Agenda Item S., Discussion and possible action on recommendations of the Application Review Committee on the following waiver requests and/or approval of applications.

(a) Request pursuant to §6.05(b) of the Act for approval of qualifying work experience in lieu of educational requirements.

- (1) **James N. Thompson** - No action taken. - Remanded back to staff
- (2) **David S. Garner** - No action taken. - Remanded back to staff
- (3) **Steven L. Culpepper** - No action taken. - Remanded back to staff
- (4) **Kevin P. Callahan** - No action taken. - Remanded back to staff

Vice Chairman Ed Miller recused himself from voting on applicants (5) Cliff Weisinger, (6) John E. Weisinger, (7) Michael S. Weisinger, (8) Jon A. Cradit, and (11) Randy Duffy.

- (5) **Cliff R. Weisinger** - A motion was made by member Gordon Ware and seconded by member Danny Perkins to table a decision on this applicant.
- (6) **John E. Weisinger** - A motion was made by member Gordon Ware and seconded by member Danny Perkins to table a decision on this applicant.
- (7) **Michael S. Weisinger** - A motion was made by member Gordon Ware and seconded by member Danny Perkins to table a decision on this applicant.
- (8) **Jon A. Cradit** - No action taken. Remanded back to staff.
- (9) **Christopher Talamini** - A motion was made by member Gordon Ware and seconded by member Rene Pena to table a decision on this applicant.
- (10) **Mark K. Dennis** - A motion was made by member Rene Pena and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (11) **Randy Duffy** - A motion was made by member Kimberly Phillips and seconded by member Rene Pena to approve this applicant. The vote passed unanimously.
- (12) **Betty Harclerode-Moore** - A motion was made by member Danny Perkins and seconded by member Rene Pena to approve this applicant. The vote passed unanimously.
- (13) **Robin W. Shaver** - A motion was made by member Gordon Ware and seconded by Kimberly Phillips to table a decision on this applicant.
- (14) **Patrick Dworaczak** - A motion was made by member Gordon Ware and seconded by Kimberly Phillips to table a decision on this applicant.
- (15) **Brian S. Smith** - A motion was made by Vice Chairman Miller and seconded by member Gordon Ware to table a decision on this applicant.
- (16) **Steven R. Kennedy** - A motion was made by Vice Chairman Miller and seconded by member Rene Pena to deny this applicant. The vote passed unanimously.
- (17) **Douglas W. Jackson** - No action taken. Remanded back to staff.
- (18) **Victor M. Sustaita** - A motion was made by member Rene Pena and seconded by member Gordon Ware to approve this applicant. The vote passed unanimously.
- (19) **Randal G. Weber** - A motion was made by Vice Chairman Miller and seconded by member Gordon Ware to deny this applicant. The vote passed unanimously.
- (20) **Ron D. Smaniotto** - A motion was made by Vice Chairman Miller and seconded by member Gordon Ware to deny this applicant. The vote passed unanimously.
- (21) **Victor Lombeida** - No action taken. Remanded back to staff.

(b) Waiver request of transcript and reference forms requirement

- (1) **Mukul R. Bhatia** - A motion was made by Vice Chairman Miller and seconded by member Gordon Ware to approve this applicant. The vote passed unanimously.
- (2) **William C. Howieson** - No action taken. To be reviewed by the Applications Review Committee.
- (3) **Mark Murphy** - No action taken. To be reviewed by the Applications Review Committee.
- (4) **Robert S. Spiller** - No action taken. To be reviewed by the Applications Review Committee.
- (5) **Andrew M. Conway** - No action taken. To be reviewed by the Applications Review Committee.

- (6) **Michael R. Yates** - No action taken. To be reviewed by the Applications Review Committee.
 - (7) **Norman W. Paterson** - No action taken. To be reviewed by the Applications Review Committee.
 - (8) **Gentiana Ionescu** - No action taken. To be reviewed by the Applications Review Committee.
 - (9) **Harold L. Culpepper** - No action taken. To be reviewed by the Applications Review Committee.
 - (10) **James J. Parr** - No action taken. To be reviewed by the Applications Review Committee.
- (c) Waiver request pursuant to §6.05(a)(3) of the Act for approval of a work waiver
- (1) **James S. Ables** - A motion was made by Vice Chairman Miller and seconded by member Gordon Ware to deny this applicant. The vote passed unanimously.
 - (2) **John H. Keith III** - A motion was made by Vice Chairman Miller and seconded by member Danny Perkins to deny this applicant. The vote passed unanimously.
- (d) Application Review - Requested work group review and recommendations
- (1) **Clifford Moore** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
 - (2) **Gary W. Meadows** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
 - (3) **William Couch** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
 - (4) **Eric Cutler** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
 - (5) **Anthony Dworzacyk** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.

Vice Chairman Ed Miller recused himself from voting on applicants (8) Andrew Grubbs and (11) Mehry Cornett.

- (6) **Steve Wemple** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (7) **Stephane Roy** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (8) **Andrew Grubbs** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.

- (9) **Kenneth Tramm** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (10) **Melanie Fregoe Edmundson** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (11) **Mehry Cornett** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (12) **Menno Dinkelman** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (13) **Stephen Worthington** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (14) **Richard A. Garrard** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (15) **Ed Kennedy** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (16) **James D. Hedley, Jr.** - A motion was made by member Kimberly Phillips and seconded by member Danny Perkins to approve this applicant. The vote passed unanimously.
- (17) **Andrea Leech** - No action taken. Remanded back to staff
- (18) **Mary A. Sturm** - No action taken. Remanded back to staff.
- (19) **David Williams** - No action taken. Remanded back to staff.
- (20) **Sashikala Devan** - No action taken. Remanded back to staff.
- (21) **James O. Lance** - No action taken. Remanded back to staff.
- (22) **John H. Thorp** - No action taken. Remanded back to staff.
- (23) **Damian A. Hire** - No action taken. Remanded back to staff.

(e) Application Review pursuant to Rule §851.108

Vice Chairman Ed Miller recused himself from voting on applicant (1) John Mosier.

- (1) **John Mosier** - No action taken. Remanded back to staff.
- (2) **Donald Chapman** - No action taken. Remanded back to staff.
- (3) **Mark Hillier** - No action taken. Remanded back to staff.

The Chairman moved to Agenda Item T., Recommendations for Agenda Items for Next Board Meeting. The Board recommended the following items for discussion and/or action: contracting a licensed geologist to assist the agency with enforcement audits; giving the executive director authority to schedule and/or conduct a public meeting with a workshop forum regarding continuing education and enforcement policy; amending the licensing fee rules for temporary or one-time licensure; discussion of continuing education; enhancement of enforcement guidelines.

The Chairman moved to Agenda Item U., Discussion of Date, Time and Location of Next Board Meeting and October 29, 2004 was selected as the next date for the Board to meet.

The Chairman moved to Agenda Item V., Adjournment. A motion was made by member Rene Pena and seconded by member Murray Milford to adjourn.

W. Kevin Coleman, Chairman
Texas Board of Professional Geoscientists