

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

Meeting of August 22, 2003
William P. Hobby Jr. Building
333 Guadalupe, Tower 3
Austin, Texas

Summary of Minutes

The Chairman called the meeting to order at 9:30 a.m August 22, 2003 as per Agenda Item A. Members present were Chairman W. Kevin Coleman, Vice Chairman Edward Miller, Kelly Krenz-Doe, Murray Milford, Kimberly Phillips, Gordon Ware, and Sheila Hall. Roll call verified a quorum was present per Agenda Item B.

Members Rene Pena and Danny Perkins were absent. Shiela Hall made a motion that was seconded by Kelly Krenz-Doe to excuse members Rene Pena and Danny Perkins. Motion passed unanimously.

Staff present included: Michael Hess, Executive Director, Texas Board of Professional Geoscientists (TBPG), and Annita Herrera, Licensing Analyst, William Kuntz, Executive Director, Texas Department of Licensing and Regulation (TDLR) and his staff Chris Kadas, General Counsel, Thomas Spradlin, Budget Analyst and Frank Knapp, Assistant Attorney General, Office of the Attorney General.

The minutes of the July 18, 2003 board meeting were reviewed and approved as per Agenda Item C. Motion to approve the minutes was made by the Vice Chairman and seconded by Gordon Ware. Motion carried unanimously.

The Chairman solicited public comment as per Agenda Item D. There was none.

Executive Director Reports as per Agenda Item E were given by Mike Hess, Executive Director (TBPG) and William Kuntz, Executive Director (TDLR). Mike Hess announced the new agency address was Suite 460A, fourth floor, Tower 1 of the William P. Hobby Building. Mike Hess then presented the plan for hiring the new employees of TBPG. He reported the expenditures for hardware to date appear to be in the vicinity of \$60,000.00. Vintage was contracted to provide IT services for the agency.

William Kuntz, Executive Director of TDLR, explained the arrangement that the TBPG had with TDLR related to personnel issues. William Kuntz further stated that TBPG could count on TDLR for any assistance necessary to complete the initial move to the new location.

The Chairman reported that the Executive Director, Mike Hess, did not have signature authority and opened the floor for a motion. The Vice Chairman made a motion to authorize Executive Director, Mike Hess, to sign for expenditures for the agency which was seconded by Kimberly Phillips. The motion passed unanimously.

The board expressed concern about the 10 day turn around time for application processing used in the performance measure standard regarding licensing. The Chairman emphasized that this was partly due to lack of staffing and the arrangement the board had with TDLR.

The Chairman moved to Agenda Item F. Annita Herrera, Licensing Analyst, reported that as of yesterday afternoon, TBPG had 4,155 folders, 2,205 pending applications and 1,415 licensees. TBPG had more than 3,600 applications paid for and were 1,100 over what was projected. TBPG was getting in more than 100 applications per day. Before Executive Director Hess began helping Annita with her workload, it was taking about 60 days for an application to be reviewed, not including the people contacted who had not returned calls. Processing time has been 60 days if it is a completed application. Ms. Herrera stated that she and Mr. Hess have been working on Saturdays and have been successful in processing applications.

The Chairman inquired if an applicant whose check arrived too late to be grandfathered would have his check returned, Herrera responded in the negative. She explained that the check would be accepted and a letter explaining the process for taking the examination would be mailed. Another question that arose from the board was whether or not all of the applicant's transcripts and reference forms needed to be submitted and completed by the end of the month. Annita Herrera commented that this had not been her interpretation of the process. Frank Knapp confirmed that both transcripts and reference forms could be received after the August 31st deadline.

Tom Spradlin addressed the board that he had been working with Mike Hess, TDLR, and IT staff and with the potential contractor that DIR has appointed to the board for web support and programming needs. Mr. Spradlin has ordered a considerable amount of equipment and is still working on software licensing complications.

Chris Kadas, General Counsel of TDLR, reported that there were a couple of agenda items that had to do with rule adoptions for a couple of subchapters, but that he wanted to give the board an update on the status of other rules that the board took action on at the last meeting under "staff reports". He noted that on Subchapter B, Code of Professional Conduct Rules, that this adoption was filed pursuant to the board's action of the last meeting and became effective yesterday, the 21st of August. These rules are now in place and effective.

Another rule that the board adopted at the last meeting was §851.29 having to do with "license by reciprocity". This was filed a little sooner and became effective on August 12th. Subchapter B took a bit longer because his division was responding to comments and incorporating changes that the board made at the last meeting. Finally, Kadas informed the board about an amendment to 851.236 that was proposed at the last meeting and had been filed with the Texas Register. The comment period on that rule change closed on September 8th. This concluded the status of those rules with the exception of Subchapters C and D, which are separate items on the agenda.

The Chairman moved to Agenda Item G, discussion of possible action on adoption of proposed rules 22 TAC Subchapter C, §851.151 thru §851.158 Compliance and Enforcement. The Chairman stated that the comment period had ended on this agenda item and asked Chris Kadas if there had been any comments returned to the board. Chris Kadas replied that no comments had been received on this particular rule proposal. Since no comments were received The Chairman asked if there was a motion to adopt the rule. A motion was made by the Vice Chairman and seconded by Kimberly Phillips. A vote was taken and the motion passed unanimously. Chris Kadas commented that TDLR would proceed on posting adoption of the rule expeditiously.

The Chairman moved on to Agenda Item H, discussion and possible action on adoption of proposed rules to 22 TAC, Subchapter D, §851.201 thru §851.243, Hearings - Contested Cases. Kadas stated that no comments were received during the comment period. A motion was made by Gordon Ware and seconded by Sheila Hall to adopt this rule. The motion passed unanimously.

The Chairman moved to Agenda Item I – discussion of application review process guidelines. Vice-Chairman Ed Miller presented suggested review guidelines. A discussion ensued. There were no objections to proposed guidelines.

The Chairman moved on to Agenda Item J – work group reports – discussion and possible action. Frank Knapp, Assistant General Counsel for the Office of the Attorney General, agreed that the board should develop some type of complaint form for the agency. Knapp mentioned that the form would not have to be fancy and recommended that they contact other boards to review different complaint forms currently being used by other agencies in order to create one specifically relating to the agency's circumstances.

The Chairman asked Frank Knapp if the board should exercise leniency of the requirements in the first few months without compromising the authority given by statute. Frank Knapp reminded the board not to overlook statute violations while exercising leniency on complaints. The Chairman added that the board needed to develop enforcement guidelines and suggested the appointment of a rules and enforcement work group that would assist the agency in drafting the necessary guidelines that would later be presented to the entire board for approval.

The Chairman pointed out that the board had just adopted under Agenda Item G, Subchapter C §851.151 through §851.158 and that §851.156 was the geoscientist seal. This is two pages of what one has to do in signing and sealing documents and how it is applied to state employees. The Chairman urged members to address questions by referring the person inquiring to the rules on the web page. He then asked Frank Knapp how long the waiting period would be before the rules took effect. Mr. Knapp's reply was that the rules would be effective twenty (20) days after notification given to the Texas Register.

The board asked the Chairman how the discussions were going with the "Memorandums of Understanding" (MOUs) with the Texas Commission on Environmental Quality (TCEQ) and the Texas Board of Professional Engineers (TBPE). Discussion followed.

The Chairman moved on to Agenda Item K, Executive Session - under section 551.074, Government Code, discussion of personnel matters and called on Executive Director Hess and asked if there were any recommendations for the agenda items for the next meeting.

The Chairman moved on to Agenda Item L. The board suggested as per Agenda Item L that the Vice Chairman and staff develop procedures and processes for complaints and renewals. The Chairman added that the board should add application review to the agenda. The board asked to address the layout plan for the performance standards. The Chairman stated that the board would do that, and would also review the strategic plan to find out what things were possible and probable.

One suggestion was that the Executive Director monitors the agency's performance standards and reports his findings to the board at each board meeting. This monitoring process would eliminate the element of surprise during the next legislative session and would address any problems that might be encountered while trying to meet performance standards. Members discussed being informed that the first quarter performance measures wouldn't be met due to the fact that the agency was basically new.

The board moved on to Agenda Item M which was the discussion of date time and location of the next board meeting. Board members commented that they were pleased with the current room location and asked Mike Hess to book the same room. Executive Director Hess said that he would try to do so if the room was not currently booked by another agency.

The Chairman informed the board that he would like to schedule meetings quarterly and added if there was a particular issue that needed to be addressed an emergency meeting could and would be called. The first suggestion was to meet in the latter part of October. October 17, 2003 was finally decided upon. The next suggested dates were January 16, April 23, and August 6, 2004.

The board planned to visit the new office facility upon adjournment.

The Chairman moved to Agenda Item N. Motion to adjourn was made by the Vice Chairman and seconded by Shiela Hall.

W. Kevin Coleman, Chairman
Texas Board of Professional Geoscientists