

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

Meeting of May 9, 2003
E. O. Thompson Building, 4th Floor
920 Colorado
Austin, Texas

Summary of Minutes

The Chairman called the meeting to order at 9:42 a.m., March 21, 2003. Members present were Chairman W. Kevin Coleman, Vice Chairman Edward Miller, Secretary/Treasurer Rene Pena, Gordon Ware, Kimberly Phillips, Shiela Hall and Murray Milford. Roll call verified a quorum was present.

The Chairman advised the Board that Kelly Krenz-Doe would not be present because of work commitments. Danny Perkins motioned that Kelly Krenz-Doe's absence be excused, seconded by Ed Miller. The motion passed with a unanimous vote.

Staff present included: William Kuntz, Acting Executive Director, Texas Board of Professional Geoscientists and Executive Director of the Texas Department of Licensing and Regulation (TDLR); Brian Francis, Deputy Executive Director, TDLR; Chris Kadas, General Counsel; Kevin Ketchum, Intergovernmental Affairs; Don Dudley, Director of Licensing and E-Commerce; Tomas Spradlin, Budget Analyst; Kim Whitt, Licensing Division; Annita Herrera, Licensing, Geoscientist Department; and Caroline Jackson, Legal Assistant.

The Chairman moved to agenda item F, 78th Legislative Session Update. Bill Kuntz presented an update to the Board on the status of legislation that could possibly affect the geoscientist program. The budget was approved at \$473,704 in FY 2004 and \$424,203 in FY 2005. This is done to provide resources for the start-up for the board such as the purchasing of equipment, etc. The Executive Directors salary is capped at \$50,000 and there were no additional budget cuts. Mr. Kuntz briefed the Board on the various consolidation bills that have been heard as well as discussions regarding the consolidation or creating of the Texas Professional Licensing Board, which would have consolidated the architects, accountants, engineers, land surveyors, and there was discussion about the possibility of including the geoscientists. During testimony there was a lot of discussion about the self-directed semi-independent project which would allow these agencies to operate outside the appropriations process and direct their own budget. It is in all likelihood that this issue of consolidating all professional agencies together in the Board of Professional Licensing will become an interim study at least for the biennium. House Bill 2 also consolidates seven agencies and one program into TDLR. One of the agencies that would be consolidated into TDLR is the Board of Professional Geoscientists. The Board was given copies of the committee substitute to HB 2 where the geoscientists are included under the TDLR umbrella. Mr. Kuntz had to leave for another meeting but will return to complete the update.

The Chairman moved to agenda item C, Approval of minutes of March 21, 2003 meeting. Ed Miller had some concerns about the wording in agenda item E, Executive Directors Report regarding his testimony before the House Appropriations Committee. He stated that in his testimony he did not recall stating that the Geoscientists Board would be willing to consolidate with TDLR. He wanted the wording changed at the end of the sentence to read: and third, consolidated with an agency similar to TDLR that licenses professions like the architects and engineers because it better reflects what he said when he testified. It was pointed out that the minutes reflect that Bill was speaking about Eds testimony. The Chairman wanted the minutes

changed to reflect that Bills report to the Board during agenda item E, Executive Directors Report did not accurately reflect Ed Millers testimony. Danny Perkins suggested drafting the language that was not included and present it as an attachment to the minutes for this meeting for final approval. There was some concern raised that Bill may not have said what was presented in the summary of minutes so Caroline Jackson was asked to review this portion of the audio tape of the meeting to see if the summary is accurate as to what Bill stated in his report at the March 21, 2003 meeting. The motion was made by Danny Perkins to approve the minutes of the March 21, 2003 meeting, subject to the discussions today concerning this agenda item, seconded by Kimberly Phillips. The motion passed by unanimous vote.

The Chairman recessed the Board for 10 minutes to allow the Application Review Work Group to prepare recommendations to the Board on each application and/or waiver request.

The Chairman moved to agenda item J, Discussion and action on recommendations of the Application Review Work Group on the following waiver requests and/or approval of application.

Danny Perkins stated that the Application Review Work Group assessed the applications for Sania Werner, Michael Kaluza, David Sweeten, William Neff, Eric Vosburgh, and Remy Hennet and recommend approval of all applicants. Motion was made by Gordon Ware to accept the recommendation of the Application Review Work Group to approve the stated applications, seconded by Kimberly Phillips. The motion passed by unanimous vote.

There was discussion regarding the tasks of the Application Review Work Group. It was the consensus of the Board that the work group will review the requests for waivers and applications as requested by staff and present to the Board a recommendation on acceptance or denial of each waiver request and application review. Murray Milford presented the recommendations to the Board regarding the below listed applicants requesting waivers.

Official transcript waiver requests pursuant to 6.09 of the Act for approval of alternative educational requirements.

Robert Bottinga - Motion by Murray Milford to approve the official transcript waiver request, seconded by Shiela Hall. A friendly amendment was made to the motion by Kimberly Phillips to add that the applicants transcript waiver request be approved under 6.09 of the Act because the applicant has demonstrated equivalent education in The Netherlands and has supplied the requisite documents necessary to substantiate his educational background. The amendment was accepted by Murray Milford and seconded by Shiela Hall. The motion passed by unanimous vote.

Ali Chowdhury - Motion by Murray Milford to approve the official transcript waiver request pursuant to 6.09 of the Act because he has an official transcript of his undergraduate education and an official transcript of his doctorate in geology which is a more than adequate demonstration of the educational requirements, seconded by Shiela Hall. The motion passed by unanimous vote.

Hai Truong - It was clarified that the applicant is seeking a waiver of the educational requirements based on work experience pursuant to 6.05(b) of the Act. The applicant has a degree in petroleum engineering but no geology courses. The motion was made by Murray Milford to delay action on this application pending verification of work experience, seconded by Kimberly Phillips. The motion passed by unanimous vote.

Melissa Coleman - Motion by Murray Milford to approve the official transcript waiver request pursuant to

6.09 of the Act because the applicant has submitted adequate evidence verifying the educational requirements such as the receipt of official records of work that has been done, the applicant has a degree in physics, a master of science and applied geophysics and extensive graduate work in the area of geophysics, seconded by Shiela Hall. The motion passed by unanimous vote.

Nick Fryer - Motion by Murray Milford to approve the official transcript waiver request pursuant to 6.09 of the Act because there is adequate evidence verifying the equivalence of a masters degree in geology and a masters degree in petroleum geology, seconded by Shiela Hall. The motion passed by unanimous vote.

Jerry Spetsaris - Motion by Murray Milford to deny the official transcript waiver request because his degrees are from the University of Houston and Ohio University and he should be able to obtain official transcripts from these institutions, seconded by Kimberly Phillips. The motion passed by unanimous vote. The applicant is to be notified to provide the official transcripts.

Bulent Ethem - Motion by Murray Milford to approve the official transcript waiver request pursuant to 6.09 of the Act because the applicant has supplied an unofficial transcript from a university in Turkey and seems to have a strong background in geology and ample evidence to meet the educational requirements, seconded by Gordon Ware. The motion passed by unanimous vote.

Bernard Care - Motion by Murray Milford to approve the official transcript waiver request pursuant to 6.09 of the Act because the applicants education was at the University of London and he also submitted an official evaluation of his educational credentials from the World Education Services, Inc. who testified to the applicants evidence of having received a bachelors of science degree and a record of the courses taken, seconded by Rene Pena. The motion passed by unanimous vote.

Transcript and reference forms waiver request pursuant to 6.09 of the Act.

Dennis Powers - Motion by Murray Milford to deny the transcript and reference forms waiver request even though he has submitted evidence that shows substantial qualifications, however he should be able to obtain official transcripts from universities in the United States as well as professional and personal references, seconded by Rene Pena. The applicant is to be notified to provide the official transcripts as well as professional and personal references. The motion passed by unanimous vote.

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

Douglas Coker - Motion by Murray Milford to deny the request for approval of qualifying work experience in lieu of educational requirements pursuant to 6.05(b) of the Act because his work experience and references reflect that of an excellent technician but not that of a professional, seconded by Rene Pena. After some discussion regarding the nature of the applicants work experience and references, the motion passed by unanimous vote.

Brian Mitchell - Motion by Murray Milford to approve the request for approval of qualifying work experience in lieu of educational requirements pursuant to 6.05(b) of the Act based on the work experience submitted by the applicant, seconded by Kimberly Phillips. The motion passed by unanimous vote.

Charles Weiner - Murray Milford advised the Board that an analysis of the applicants transcript indicates that the applicant meets the educational requirements therefore a waiver of the educational requirements in lieu

of qualifying work experience pursuant to 6.05(b) of the Act is not needed. Mr. Milford made the motion to remand this application to staff for processing, seconded by Gordon Ware. The motion passed by unanimous vote.

Michael Bunger - Motion by Murray Milford to approve the request for approval of qualifying work experience in lieu of educational requirements pursuant to 6.05(b) of the Act based on the information submitted regarding his work experience, seconded by Shiela Hall. The motion passed by unanimous vote.

The Chairman moved to agenda item D, Public Comment. John Mikels a licensed professional geoscientist speaking on behalf of himself and as an officer of the Texas Association of AIPG presented public comment to the Board regarding the guidelines and evaluation for accepting waivers.

The Chairman moved to agenda item H, Staff Reports. Annita Herrera advised the Board currently there have been 1120 applicants with 587 pending applications and 533 individuals that have been licensed. Currently there is a 45 day turn-around time but staff is working on reducing this time. Chris Kadas informed the Board that the two rule-sets that were acted on at the last meeting, reciprocal licensing and code of professional conduct have been published and the deadline for public comment is May 25, 2003. To date there have been no public comments received. Tomas Spradlin reported that sufficient revenue has been received to repay the grant, however an official letter has not been sent to the Governors office informing them that the grant has been repaid. Mr. Spradlin suggested contacting the Governors office to determine from them when the monies are to be repaid. Chairman Coleman will work on this task and issue an official letter to the Governor regarding repayment of the grant and the transfer of monies. The Board recessed for lunch at 11:56 a.m. and reconvened at 1:01 pm.

The Chairman moved back to agenda item F, 78th Legislative Session Update and welcomed Bill Kuntz back to the meeting. Mr. Kuntz continued reporting on House Bill 2 and how it pertains to the Board with extensive discussion on this issue. There was discussion regarding Chapter 51 of the Occupations Code and how it would impact the Geoscientists Boards authority, procedures, and the process for rulemaking if the bill passed. Brian Francis explained that the Occupations Code has several chapters and each of these chapters may represent a separate state agency. He stated that if the bill passes there would be two chapters in the Occupations Code that would affect geoscientists, Chapter 51 for over-arching operational matters and Chapter 1002 concerning the specifics of the statute. In theory, where it addresses conflicts is if there is a provision in the statute that differs from Chapter 51, then Chapter 51 provisions would prevail. Also in theory, if there were issues that were silent in Chapter 51 as it relates specifically to the Geoscience Practice Act, then the Act would prevail. There was some discussion as to how a professional board, such as the geoscientists, were put in a bill together with the funeral service commission, plumbing examiners, barber examiners, cosmetologists, and structural pest control. There was also discussion on the statutory authority and functionality of the Geoscientist Board if they were to come in under the TDLR umbrella.

The Chairman moved to agenda item E, Executive Directors Report. Bill Kuntz stated that this report was discussed under agenda item F.

The Chairman moved back to agenda item D, Public Comment. John Mikels addressed the Board regarding concerns with House Bill 2 and stated support of the intent and purpose of the bill, however, there are concerns regarding some of the aspects of the bill and the potential impact on the Board and licensees. There was additional discussion regarding House Bill 2 and committee hearings that were held. Mr. Francis reiterated that House Bill 2 did not include geoscientists as filed. Testimony before the committee did not mention the geoscientists being rolled underneath TDLR. The committee substitute as filed with the

committee report included the geoscientists. The Chairman read an e-mail in to the record from Phillips E. Pierce, PG in San Antonio stating that he has e-mailed his state representative and senator recommending that the geoscientists be governed by the Texas Department of Professional Licensing as opposed to the Texas Department of Licensing and Regulation and the reason for his recommendation. Brian Francis advised the Board that currently there is no agency that exists called the Texas Department of Professional Licensing. It is being considered as an interim study and would not happen until 2006 or 2007 if it were to happen.

The Chairman moved to agenda item G, Discussion and possible action on planning for the establishment of a stand-alone Professional Geoscientist Licensing agency. After some discussion the motion was made by Ed Miller to turn over to the Acting Executive Director and staff to prepare a plan to begin execution on June 3rd to advertise for the Executive Directors position to begin employment by September 1, and to locate office space, acquisition of equipment and other staff that will be required to operate as an independent agency and to develop a plan to deal with transition of staff if the Board is separated or remain as a stand alone agency, seconded by Rene Pena. The motion passed by unanimous vote. Bill Kuntz requested the Boards input on the position description and criteria for the Executive Directors position.

The Chairman moved back to agenda item C, Approval of Minutes of March 21, 2003 meeting. Chairman Coleman stated that he would like to state for the record that the request to modify the minutes was to correctly reflect Ed Millers testimony before the Government Reform Committee. A transcription of what was stated at the last meeting was presented to the Board for review. It was the consensus of the Board that the summary of minutes of this meeting would reflect Ed Millers correct testimony before the Government Reform Committee as discussed. The summary of minutes of the March 21, 2003 meeting will not change.

The Chairman moved to agenda item I, Work Group Reports Discussion and possible action. Danny Perkins presented a process for reviewing applications and waivers for consideration by the Board. He stated that the review process would be in two phases. In Phase One staff receives and reviews the applications and determines if they meet all the standards for consideration for licensing. Staff would then make a recommendation to the Board to accept or reject the application. If there is a question relative to the application, it would then go to the Application Review Work Group and the Work Group would develop a summary sheet with a recommendation to the Board to accept or deny the recommendation. As far as waivers are concerned the idea is to have the Work Group make the recommendation to staff and staff would send the recommendation to the Board for consideration. Where there was a need for technical expertise the Work Group would be asked for their input from staff and the input would go back to staff but the application would not necessarily go before the Board. If there were disagreements in the Work Group regarding a recommendation then the Board would review the application. Mr. Perkins stated that this process would streamline the application review and waiver review process. Chris Kadas and Don Dudley will work on providing the guidelines or procedures of this process as outlined by Danny Perkins for the Board to review and accept as an established policy.

At this time, the Chairman created the Relocation Work Group to assist Bill Kuntz and Brian Francis. Rene Pena will Chair this Work Group with members being Gordon Ware and Ed Miller. Kimberly Phillips will be available to assist this work group.

Rules and Examinations Work Group-Ed Miller, Group Leader Ed Miller reviewed the submitted document regarding areas that require rule-making and areas that authorize rule-making. Chris Kadas will get with Ed Miller regarding amending language pursuant to 851.23 and will report at the next Board meeting. Mr. Miller advised the Board that TCEQ is in the process of amending their existing rules to accommodate Senate Bill

405. The motion was made by Ed Miller to authorize himself and Chairman Coleman to work with the Acting Executive Director and staff to make any comments in writing on behalf of the Board to TCEQ concerning proposed rules that may affect the Texas Board of Professional Geoscientists, seconded by Shiela Hall. The motion passed by unanimous vote.

here was discussion regarding Subchapter C, Compliance and Enforcement rules. Motion by Ed Miller to approve for posting to the Texas Register, Subchapter C, Compliance and Enforcement proposed rules, with the changes as discussed, and Chris Kadas will make sure that the rules are consistent with the Act, seconded by Kimberly Phillips. The motion passed by unanimous vote.

There was discussion regarding Subchapter D, Hearing-Contested Cases rules. Motion by Ed Miller to authorize Chris Kadas to make changes to include proper statutes and references and post to the Texas Register, Subchapter D, Hearing-Contested Cases proposed rules, seconded by Shiela Hall. The motion passed by unanimous vote.

Rene Pena was excused from the meeting at 3:20 pm. Several other members were on the same airline flights and had to be excused from the meeting.

The Chairman moved to agenda item Q, Adjournment. Motion by Danny Perkins to adjourn, seconded by Shiela Hall. The motion passed by unanimous vote. The meeting was adjourned at 3:35 p.m.

William K. Coleman, *Chairman*

Texas Board of Professional Geoscientists