

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

BOARD MEETING Summary of Minutes

August 14, 2009

William P. Hobby, Jr. Building
333 Guadalupe Street, Tower 1, Suite 1250A
Austin, Texas 78701

- A. The meeting was called to order at 9:35 a.m.
- B. Roll was called and a quorum was certified. Members present were Chairman Barbara Roeling, PG, Ronald Kitchens, Vice-Chair, Dr. Tom Hallmark, PG, Secretary/Treasurer, Y. Lynn Clark, PG, Ben Harris, Kelly Krenz-Doe, PG, Charles Knobloch, PG, Glenn Lowenstein, PG, and Gregory Ulmer, JD.
- C. The minutes from the June 26, 2009 Board Meeting were approved by unanimous consent.
- D. Public comments were offered by two individuals. Mr. Matthew Cowan, PG, addressed the Board as a representative of the Texas Association of Professional Geoscientists (TAPG) and Houston Geological Society (HGS). He addressed the fee increase and mentioned that the Board received at least 350 e-mails in opposition to the fee increase, in addition to a few that were in favor of it. He mentioned that Texas Geoscience licensure fees are the highest in the nation; he recommended a fee scale for firm registration; and he urged TAPG to increase its enforcement activity and to set the bar high for licensees.

Mr. Kevin Coleman, PG, the first Chair of TAPG, addressed the Board as a representative of the Association of Engineering Geologists (AEG), Texas Section. He mentioned that the Board was established to obtain legal authority to address important geoscience issues, which he outlined. He stated that the geoscience industry will continue to be governed by the State. If the industry is not governed by TAPG, then it will be governed by another state entity. The geoscience profession would benefit greatly if it continued to be governed by peers. He also mentioned that TAPG is understaffed and underfunded. The AEG is not supportive of the fee increase, but is not opposed to it either: AEG is supportive of the Board and its mission.

- E. The Executive Director's Report was given by Interim Executive Director Charles Horton, who addressed the issue of the fee increase; how the Board's decision will affect the agency; the need for a new staffing plan that addresses agency needs; the development of meaningful performance evaluations; and the need for increased enforcement activities.
- F. Staff Reports:

- a. The Compliance and Enforcement report was given by Investigator Alberto Jimenez, PG, who addressed recent activities related to firms registered as Corrective Action Specialists with the Texas Commission on Environmental Quality. As a result of recent inquiries, 51 firms have registered, or have had their DBA issues resolved, or have started paperwork to register their firm; 9 firms were unable to be located; 34 firms denied they practice geoscience, which staff will verify; Cease and Desist letters will be sent to 9 firms; and 24 firms may have complaints filed against them if they are found to offer or provide geoscientific services to the public. Two complaints have been received by TAPG and are awaiting review by the Complaint Review Team (CRT). Fifty-five registered Geoscience Firms have expired registrations. Future actions regarding those firms will be addressed at a later date by the Compliance/Enforcement Committee.

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

- b. The Finance report was given by Chief Financial Officer Vincent Houston, who addressed agency expenditures and travel expenses. TBPG will fall \$48,000 short of anticipated revenue for FY 2009 in an estimate by the Comptroller's office. The agency has communicated with the Comptroller's office; no further action for FY 2009 is required.
- c. The Licensing report was summarized by Mr. Horton. It was requested that a chart be created to show actual licensing trends only. Three pieces of information from licensing records could assist in this area: PG number, date of initial licensure, and date of license expiration. Such information would allow for more precise past licensing numbers. Also recommended was staff training in charts/graphs.

G. Committee Reports:

- The Application Review and Continuing Education Committee Report was given by Committee Chair Tom Hallmark, who addressed reciprocity, firm registration, the issue of sole proprietors vs. sole business owners, and continuing education opportunities.
- The Compliance and Enforcement Committee Report was given by Committee Chair Glenn Lowenstein, who addressed the development of the Standard Operating Procedures and flowchart to streamline the complaint process.
- The Financial Review and Strategic Planning Committee Report was given by Committee Chair Ron Kitchens, who addressed the revenue estimates for Fiscal Year 2009; the anticipated shortfall from the estimate by the Comptroller's office; agency expenditures; the wording of the revenue rider; staffing alternatives; the revenue estimates for Fiscal Years 2010-11; and the Governor's Operating Budget, due in December.
- The General Issues Committee Report was given by Committee Chair Lynn Clark, who addressed 22 TAC 851.106, regarding a geoscientist's responsibility to the geoscience profession. This item will be addressed later on the agenda. Also addressed was a previously proposed amendment to 22 TAC 851.30, regarding engineering exemptions to firm registration. The committee recommends allowing the proposed amendment to expire and revisiting the language at a later date. Advisory Opinions were also addressed, which the Board will begin accepting September 1, 2009. Requests for Advisory Opinions will be forwarded to Chairman Roeling, who will direct the requests to the appropriate committee.
- Legislative Committee Report- The committee had not met; no report was given.
- Joint Committee with TBPE- The committee had not met; no report was given.

The Board adjourned into Executive Session at 11:25 a.m. to consult with its attorney regarding agenda items I, J, K, and L. Executive Session ended at 12:55 p.m., and the Board took a short recess. The Board re-convened at 1:09 p.m. in open session.

- H. The Board discussed the Agreed Order #09-001, regarding Mr. John Hultman. The order included an Administrative penalty of \$500, plus registration and late fees. The Board unanimously approved the Agreed Order.
- I. Discussion and possible action on public comments received regarding the proposed amendment to 22 TAC 851.80, regarding fee increases. Three hundred fifty-six (356) e-mails had been received by the Board before the amendment had been proposed at the June 26, 2009 Board meeting. Thirty-seven (37) e-mails had been received during the comment period. Some of the issues raised included the potential loss of licensees; that licensing fees are already high; that the fee increase places an undue burden on licensees; the challenge for sole-business owners; and whether the license is worth the price. The Board discussed the issues raised.

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

- J. Discussion and possible action on the final adoption of an amendment to 22 TAC 851.80, regarding fee increases. The Board adopted the amendment to 22 TAC 851.80 as written in a vote of five to three, with Members Harris, Knobloch, and Ulmer dissenting, and Chairman Roeling abstaining.
- K. Discussion and possible action relating to proposed changes to 22 TAC 851.106, regarding responsibility to the geoscience profession. It was proposed that input be requested from licensees regarding the key issues before amendment language is drafted and presented. Mr. Kevin Coleman, PG, offered his assistance in formulating a group to assist with developing language for the amendment.

Member Harris left the meeting at 2:55 p.m.

- L. Discussion and possible action regarding the Complaint Standard Operating Procedures. The Board directed staff to review the Suggested Sanctions and Penalties table and clarify the violation language with respect to each rule citation. The Board unanimously adopted the Standard Operating Procedures for use immediately in the Complaint Process.
- M. Discussion and possible action regarding the Geoscientist-in-Training (GIT) program. Dr. Hallmark outlined the major points of the GIT program, although it is still in the developing stages. The program should be beneficial for individuals who are recently college graduates who have passed the fundamentals part of the licensing exam. The program may include an annual cost and some involvement with the profession. Those in the program will receive the agency newsletter, and will not need to re-submit their academic transcripts when they apply for licensure. Continuing education may be required, as may character references. More information will be available as the program develops.
- N. The next Board meeting is scheduled on November 20, 2009.
- O. The Board adjourned at 3:16 p.m.

Barbara Roeling, P.G., *Board Chair*