

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

BOARD MEETING

November 20, 2009, 9:00 a.m.

Summary of Minutes

- A. The meeting was called to order at 9:01 a.m.
- B. Roll was called and members present were Chair Barbara Roeling, PG, Vice-Chair Ron Kitchens, Secretary/Treasurer Tom Hallmark, PG, Y. Lynn Clark, PG, Charles Knobloch, PG, and Glenn Lowenstein, PG. Members Ben Harris, Kelly Krenz-Doe, PG, and Greg Ulmer, JD were absent. A quorum was certified.
- C. The minutes were addressed later in the agenda.
- D. Public comments were offered from Mr. Matthew Cowan, PG, on behalf of Houston Geological Society (HGS) and Texas Association of Professional Geoscientists (TAPG). Mr. Cowan thanked the Board for their service, and noted that both organizations are here to assist the Board.
- E. Executive Director's Report. Interim Executive Director Charles Horton addressed the revenue rider, and that the finding of fact letter was faxed to TBPG by the Comptroller's office.

The Board temporarily suspended discussion of the Executive Director's Report to consider item C. The minutes from the August 14, 2009 Board Meeting were approved as amended.

Continuing with the Executive Director's Report, TBPG will be working with a revenue estimator regarding TBPG's anticipated revenue. Mr. Horton also addressed the approved funding, which will allow the purchase of a new database, moving into new office space, the addition of full-time equivalent positions (FTEs), funding available for the return of LTC Hess, and the purchase of IT equipment. Personnel changes were also mentioned; staff evaluations will occur in early December; and specific position descriptions for staff will be developed with specific standards for evaluation. Ongoing projects include the revision of the rules, current and future enforcement activities, and licensing reciprocity updates. The priority states for reciprocity include: Georgia, Arkansas, South Carolina, and North Carolina. Several enforcement initiatives are ongoing. The licensing data charts have a new format, and will include more comprehensive data. An announcement was made from the agency's Chief Financial Officer Vincent Houston that he is resigning his position effective December 6, 2009 and will be moving over to Administration at the Texas State Library. He expressed appreciation for the Board and staff, and has enjoyed the time he has spent at TBPG. The Board expressed appreciation for Mr. Houston.

F. Committee Reports:

- *Application Review and Continuing Education Committee Report:* Given by Committee Chair Tom Hallmark, PG, he addressed the approval of an application by reciprocity with proof of passing scores on the licensing exam. He also addressed reciprocity; status of the Geoscientist-in-Training (GIT) program; and mentioned that a draft rule for the GIT program will be addressed later in the meeting. The Committee would like to establish the GIT program in early March.
- *Compliance and Enforcement Committee Report:* Given by Committee Chair Glenn Lowenstein, PG, he mentioned that the Complaint Review Team (CRT) had investigated two actions; he addressed the Corrective Action Specialist (CAS) project update; the issue of public versus private practice of geoscience; Phase II Environmental Site Assessments (ESA); and the maximum penalty of \$100 per violation for disciplinary actions. The next committee meeting is scheduled on January 28, 2010.

- *Financial Review and Strategic Planning Committee Report:* Given by Committee Chair Ron Kitchens, he addressed the Annual Financial Report for FY 09, which has now been completed and filed. The FY 10 budget had been discussed but the actual budget was unknown at the time. The committee continues to work with the Comptroller's office on the biennial revenue estimate.
- *General Issues Committee Report:* Given by Committee Chair Y. Lynn Clark, he addressed the issue of responsibility to the geoscience profession; the amendment regarding exemptions to firm registration is being allowed to expire and may be revisited and clarified at a later date; the issue of fees for sole-proprietors versus corporations that are owned and operated by an individual; and advisory opinions.
- *Legislative Committee Report:* The committee had not met; no report was given.
- *Joint Committee with TBPE Report:* Chairman Roeling, PG, noted that the Committee did not have a quorum to meet before the Board meeting, but the next meeting is scheduled on December 11, 2009. Items to be discussed are: geoscience work activities vs. engineering, and further clarification of the PE/PG complaint process. It was requested that Affected Property Assessment Reports (APARs) should be added to the discussion.

G. Staff Reports:

- *Enforcement:* Given by Investigator Alberto Jimenez, PG, he addressed the outline of current and future projects, including the CAS project update; geoscience firms with expired registrations; and recent complaints received. Mr. Jimenez has an upcoming Ethics presentation at an Underground Storage Tank (UST) compliance seminar; and he recently completed a Texas Commission on Environmental Quality (TCEQ) survey regarding streamlining their process for information requests.
- *Licensing:* Given by Annita Herrera, she addressed the status of reciprocity with other states; and the current licensing numbers. Firm expiration letters have been sent out and are being tracked. An issue was raised regarding the need for accurate contact information regarding the geoscience firm expiration notice mail-outs.
- *Financial:* Financial Officer Vincent Houston mentioned that the financial information will be discussed later under item J.

H. Regarding the Annual Financial Report for FY 2009: the Annual Financial report was submitted, and copies of the report were sent to Board members.

I. Regarding the Operating Budget for FY 2010: the Operating Budget is due December 1, 2009, and will be completed now that the certification numbers are known.

J. Regarding the financial review and analysis of expenditures for the 2010-2011 biennium, Interim Director Horton provided an overview. TBPG's legislated appropriation for FY 2010 is \$795,812. The legislated appropriation for FY 2011 is \$653,953. After earmarking amounts for one-time expenses in FY 2010 (lapsing the salary for Executive Director Hess, funds dedicated for the TBPG office move, replacement of IT equipment, and purchase of a new licensing and enforcement database) and Executive Director Hess' salary in 2011, the agency's spendable budget is \$557,186 for FY 2010 and \$549,993 for FY 2011. Mr. Horton briefly mentioned that the agency staffing structure is being reorganized. In addition to adjustments in current staff roles, new FTEs will be used to hire an additional investigator and three administrative assistants to assist in enforcement activities. Assuming Executive Director Hess returns in the summer of 2010 as anticipated, Mr. Horton will be available to move into the role of Enforcement Director; however, Mr. Hess would decide Mr. Horton's role at the time he returns.

K. Regarding the Biennial Review Estimate FY 2010-2011 and update on certification process: this item was covered under item J.

L. Regarding the salary of Executive Director and Interim Executive Director: The Board went into closed session at 10:59 a.m. to consult with the agency's attorney. The Board came out of closed

session at 11:50 a.m. and took a short break. No action was taken in closed session. The Board resumed business at 12:03 p.m. and unanimously approved an increase in salary to \$70,000 for Interim Executive Director Horton effective December 1, 2009. The Board expressed appreciation for the efforts and work performance of Interim Executive Director Horton. The Board will discuss the salary of LTC Hess at a later date.

M. Discussion and possible action regarding two Agreed Board Orders. In a vote of 5-0, with Member Lowenstein recusing himself from the vote, the Board accepted the recommendation of the CRT to proceed with the two Board Orders:

- Complaint 09-003 filed against C. Shane West
- Complaint 09-004 filed against Paul R. Wild

The Board voted to proceed with both Board Orders whether or not an agreement is reached with the respondents. The Board also discussed its possible responsibility to inform clients when the Board finds a violation related to a report or other geoscientific work. The topic has been referred to the Compliance and Enforcement committee for further consideration.

N. Regarding proposed new rules 22 TAC 850, Chapter D, 850.100-850.105, Advisory Opinions: The Board unanimously approved proposed new rules 22 TAC 850, Chapter D, 850.100-850.105, for posting to the Texas Register.

O. Regarding proposed new rules 22 TAC 851.40-851.46, Geoscientists-in-Training (GIT) program: The Board unanimously approved proposed new rules 22 TAC 851.40-851.46 for posting to the Texas Register.

P. Regarding proposed amendments to 22 TAC 851.80, Fees: The Board went into closed session at 1:43 p.m. to consult with the agency's attorney. The Board came out of closed session at 2:03 p.m. No action was taken. The Board unanimously approved proposed amendments to 22 TAC 851.80 for posting to the Texas Register.

Q. Regarding proposed amendment to 22 TAC 851.106 regarding Responsibility to the Geoscience Profession: The Board approved proposed amendment to 22 TAC 851.106 for posting to the Texas Register in a vote of 4-1, with Member Lowenstein dissenting.

R. Regarding the recent Oil and Gas Advisory Workgroup: Member Charles Knobloch, PG, reported on the success of the recent Advisory Workgroup. Some issues that were discussed included the importance of reciprocity; and the use of the agency website to improve the value of the profession.

S. Regarding the report from the recent ASBOG® annual conference: Member Y. Lynn Clark, PG discussed the nationwide decline of exam numbers; increasing the value of licensure, including reaching out to oil and gas licensees; ASBOG® deficits are climbing; State member dues are increasing; the examination fee for the Fundamentals exam will soon increase to \$250.

T. The next Board meeting will be held on March 19, 2010.

U. The meeting was adjourned at 3:14 p.m.

Barbara Roeling, PG
TBPG Chairman

Date