

# TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS

Meeting of February 7, 2005  
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 10:35 a.m. on February 7, 2005 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, Kelly Krenz-Doe, Murray Milford, Gordon Ware, Shiela Hall, and Danny Perkins. All members were present except member Kimberly Phillips who was delayed. A quorum was certified by the Secretary/Treasurer.

The Chairman moved to **Agenda Item C.**, Absences of Board Members - Discussion and Possible Action. There were no previous Board member absences which required discussion and/or action. Board Member Rene Pena informed the Board that Board Member Kimberly Phillips was not absent but that she would be arriving late.

The Chairman moved to **Agenda Item G.**, Proposed Memorandum of Understanding (MOU) with the Texas Board of Professional Engineers (TBPE) Presentation, Discussion and Possible Action. Ms. Dale Beebe-Farrow, Executive Director of the TBPE, addressed the Board regarding the memorandum of understanding between the TBPE and the Texas Board of Professional Geoscientists (TBPG). The MOU would create a standing joint committee between the two boards. Executive Director Farrow stated that the MOU had already been adopted by the TBPE in its present form. The members reviewed the MOU and a discussion ensued. After the discussion, a motion was made by member Rene Pena and seconded by member Dr. Murray Milford to enter into the MOU with the TBPE as drafted. The motion carried unanimously and the Chairman signed the MOU immediately. Two copies were signed; one for each agency.

The Chairman moved to **Agenda Item H.**, TBPE Policy Advisory Opinion (PAO) Regarding Water Quality Planning, Presentation, Discussion and Possible Action. Ms. Dale Beebe-Farrow, Executive Director of the Texas Board of Professional Engineers, briefed the Board regarding the policy advisory opinion. The PAO specifies that some water quality work be performed or supervised by a professional engineer. She also stated that the PAO had been published in the Texas Register. Ms. Beebe-Farrow that the TBPE had received a mass of public comment and that the Texas Board of Professional Engineers would be drafting a revised PAO within the month of February. Discussion ensued. No action was taken by the Board.

The Chairman moved to **Agenda Item I.**, Presentation and Discussion for Allowing the Association of State Boards of Geology (ASBOG) Fundamentals of Geology Exam to be taken during last semester of college or upon graduation. Christopher C. Mathewson, Ph.D. from Texas A & M University presented a case for allowing students to take the ASBOG fundamentals exam during their last semester or after graduation. Dr. Mathewson is a member-

at-large of ASBOG, serving on the Council of Examiners since 1994. A discussion of the matter ensued and no Board action was taken.

Board member Kimberly Phillips arrived during Agenda Item I.

The Chairman moved to **Agenda Item E.**, Public Comment. Mr. Craig Maddox, SOAH Docket #481-05-4884, appeared to request reconsideration of denial of his license application. The Chairman requested that Mr. Maddox remain for discussion under Agenda Item N., Discussion and Possible Action Regarding Final Decision Concerning SOAH Docket Numbers 481-04-5798, 481-05-4884, and 481-05-4885.

Mr. Ken Helm, a licensed geologist, appeared in person representing licensed geoscientists who were involved in exploration and production of oil and gas. Mr. Helm's comments indicated concerns that many licensed geoscientists currently involved in oil and gas exploration and development (currently exempted) would not renew their licenses if the current continuing education rules were adopted.

The Chairman moved to **Agenda Item J.**, Enforcement Procedures, Discussion and Possible Action. Carol Batterton, under contract by the Texas Board of Professional Geoscientists to assist the agency with the development of the agency's complaint investigation and enforcement standard operating procedures presented draft recommendations. She requested the draft enforcement procedures be reviewed by both the Board and the Attorney General's Counsel, Mr. Frank Knapp. Ms. Batterton indicated to the Board that she proposed to have the final version completed by the end of February. Discussion ensued. No action was taken.

The Chairman moved to **Agenda Item D.**, Approval of minutes of the October 29, 2004 Board meeting. Discussion ensued and changes were requested. A motion was made by Vice Chairman, Edward Miller and seconded by member, Dr. Murray Milford to approve the October 29, 2004 minutes with changes as amended by Attorney General's Counsel, Frank Knapp to include that the Board went into Executive Session at 3:39 p.m. and returned to open session at 4:22 p.m. The motion carried passed unanimously.

The Chairman moved to **Agenda Item T.**, 22 TAC §850.61 - Responsibilities of the Board - Meetings - Discussion and Possible Action Amendment to (a) Meetings will be conducted under Robert's Rules of Order (Revised 1998). Discussion regarding establishment of powers and duties of the Board officers ensued. A motion was made by member Danny Perkins and seconded by member Kelly Krenz-Doe to leave the language in §850.61, subsection (a) of the rules as it stands. The motion failed. A motion was made by member Murray Milford and seconded by Vice Chairman Edward Miller to table the discussion until after lunch.

The Board recessed for lunch. The Board convened for lunch at 12:05 p.m.

The open meeting was reconvened at 1:05 p.m.

The Board re-entered discussion regarding **Agenda Item T.** No action was taken.

The Chairman moved to **Agenda Item F.**, Introduction of Representatives of Other State Agencies, Presentations and Discussion. The introduction of other state agency representatives had already been addressed in Agenda Items G, H, and J. No discussion followed.

The Chairman moved to **Agenda Item K.**, Executive Director's Report to Include Update of Agency Progress, Discussion. Executive Director, Michael Hess reported that his briefings at both the Senate and House Committee Hearings at the Capitol had gone very smoothly and been well received. He informed the Board members that Representative Fred Brown had requested him to poll the Board regarding TexasOnline. Mr. Hess further added that he had been instructed by Representative Brown to conduct agency research and report back to the House Committee about whether it would be economically feasible for the agency to assume the function of TexasOnline within its IT capabilities and have the money going directly to the agency instead of TexasOnline. Executive Director Hess also stated a new bill introduced by Representative Vicki Truitt to license meteorologists would create licensing of meteorologists. He also stated that some geoscience courses are required for a degree in meteorology, and that it may be feasible in the future for meteorologists to be licensed by the TBPG under a new discipline of geoscience.

The Chairman moved to **Agenda Item L**, Staff Reports. Chief Financial Officer, Vince Houston, provided the Board members a breakdown of the agency's current operating expenditures and revenue through the month of January. Figures presented by Mr. Houston indicated that the agency is currently generating more revenue than is being expended for operation. Mr. Houston presented the Board with travel accommodation information and information regarding liability insurance for Board members as a whole.

Director of Licensing, Annita Herrera, reported that the agency currently licenses 6,695 geoscientists noting that the number fluctuates due to the renewal cycle of each licensee. "Cease and desist" letters have been mailed to geoscientists whose licenses have been expired for more than 60 days. The letters stated they must renew, cease and desist the public practice of geoscience or they could relinquish their license. The agency's first newsletter would be generated and mailed the following week, that the agency would be administering the spring ASBOG exam on March 4, 2005, and that the Wilkins Group had been contracted to create the agency's new web site. Discussion ensued. The Chairman instructed the Executive Director and Ms. Herrera to develop written policies and procedures for the administration of future ASBOG exams.

The Chairman moved to **Agenda Item M.**, Committee Reports, Discussion and Possible Action. Vice Chairman Ed Miller reported that there were no items to be reported for this committee other than what was listed under Agenda Item U for Continuing Education. Dr. Murray Milford briefed the Board about the Applications Review Committee meeting held on December 20, 2004, at which the committee heard appeals from three applicants. All three applications were approved during the meeting. The Chairman stated that the MOU between the Texas Board of Professional Engineers and the Texas Board of Professional Geoscientists was adopted under Agenda Item G earlier in the meeting.

The Chairman moved to **Agenda Item N.**, Discussion and Possible Action Regarding Final Decisions Concerning SOAH Docket No. 481-05-5798, Docket Number 481-05-4884, and Docket No. 481-05-4885. Mr. Craig Maddox, SOAH Docket #481-05-4884, appealed to the Board to request reconsideration of denial of his license application by the TBPG Applications Review Committee and State Office of Administrative Hearings. Mr. Maddox cited perceived inconsistencies within the application review process.

Frank Knapp briefed the Board regarding SOAH Docket No. 481-05-5798 that this case was dismissed due to the defendant's failure to appear in court. No Board action was necessary for this docket number. A motion was made by member Murray Milford and seconded by member Shiela Hall to accept the SOAH recommendation for denial of licensure regarding SOAH Docket No. 481-05-0884. Discussion ensued. A record vote was held. Vice Chairman Ed Miller, and members Murray Milford, Shiela Hall and Gordon Ware voted "aye". Members Danny Perkins, Kimberly Phillips, Kelly Krenz-Doe and Secretary/Treasurer Rene Pena voted "nay". As there was a tie vote, the Chairman voted "nay". The motion failed. A motion was made by member Rene Pena and seconded by member Kelly Krenz-Doe to table final decision on SOAH Docket No. 481-05-0884 until the Applications Review Committee had re-evaluated the applicant's file. The vote carried with only Shiela Hall voting in opposition for the record. A motion was made by member Dr. Murray Milford and seconded by member Kimberly Phillips to accept the SOAH recommendation for denial of licensure regarding SOAH Docket No. 481-05-0885 with modification of a name change within the text of the Attorney General's document for Board signature. The motion carried unanimously.

The Chairman moved to **Agenda Item O.**, Report of ASBOG Meeting Held in Boise, Idaho. The Vice Chairman Edward Miller stated that ASBOG held two meetings per year regarding the process ASBOG goes through in order to both develop and critique questions which are on the Fundamentals of Geology and Practice of Geology exams given to the geology applicants. He also stated that he had attended the meeting held in November and recommended to the Board that he attend the next meeting which would be held in the spring, but that the licensed Board members alternate in attendance for year 2006.

The Chairman moved to **Agenda Item P.**, Report of CSSE Meeting in Seattle, Washington. Member Dr. Murray Milford stated that CSSE also has two meeting per year. The summer meeting was structured to develop scenarios and questions for the Fundamentals and the Advanced Practice Exams. The fall meeting, which he attended, was structured for the review of the previous administration of those exams with modification of 20% of the questions annually. He added that another topic of discussion at the meeting was the SSSA Board deficit which had forced the Board to reduce its size and place active members in an advisory capacity. Dr. Milford also stated that one of the most significant topics of discussion during the meeting regarded SSSA's assistance toward establishing licensure of soil scientists in states that do not currently license soil scientists. He added that an advisory document had been created to help facilitate the establishment of licensure programs.

The Chairman moved to **Agenda Item Q.**, Organization of Committees, Discussion and Possible Action. Executive Director, Michael Hess presented the Board with his recommendations of committee assignments. Discussion ensued. The Board modified the title of Financial Review Committee to the Financial Review Committee/Strategic Plan Committee and included the same members. The Board also decided to change the Applications Review Committee to an Ad Hoc Committee once the licensure processing for applicants falling within the "grandfather" period had been completed. A motion was made by member Kimberly Phillips and seconded by member Rene Pena to accept the committee assignment as recommended by the Executive Director with the exception of continuation of the Application Review Committee. A friendly amendment was made by member Gordon Ware to also change the Financial Review Committee to the Financial Review /Strategic Plan Committee. His friendly amendment was seconded by member Kimberly Phillips. The motion to adopt the recommended committee assignments with the friendly amendment carried unanimously.

The Chairman moved to **Agenda Item R.**, Policy Regarding Granting Requests for a Waiver of Testing Requirements after Closure of the “Grandfather” Period, Discussion and Possible Action. Discussion ensued. A motion was made by member Shiela Hall and seconded by Vice Chairman Edward Miller that the Board will establish a policy stating that the Board would no longer accept a waiver without taking the ASBOG exams for future geoscience licensure applicants after closure of the “grandfather” period. The motion carried with only member Kelly Krenz-Doe abstaining.

The Chairman moved to **Agenda Item S.**, 22 TAC §851.80 - Licensing Fees - Discussion and Possible Action (a) Amendment to temporary or one time licensure fee. Discussion ensued. The Vice Chairman asked the Executive Director to conduct research regarding what other states charge for a one time or a temporary license and report back to the Board at the next meeting for possible action and assessment of a fee. A motion was made by Vice Chairman Miller and seconded by member Kimberly Phillips to table this agenda item until the next Board meeting. The motion carried unanimously.

The Chairman moved to **Agenda Item U.**, Proposed 22 TAC §851.32 - Continuing Education Program Rules - Discussion and Possible Action. The Vice Chairman briefed the Board of the two open meetings held by the Continuing Education Committee and the public comments which had been received. Discussion ensued. A motion was made by Vice Chairman Edward Miller and seconded by member Dr. Murray Milford to approve the proposed continuing education rules to be posted on the Texas Register for public review and comment. Henry Wise, of the Houston Geological Society, and Ken Helm, a licensed geologist representing the oil and gas population, presented their public comments regarding the proposed continuing education program. The motion to approve the proposed continuing education rules for posting on the Texas Register carried unanimously.

The Chairman moved to **Agenda Item V.**, Recommendations for Agenda Items for Next Meeting. The Chairman listed agenda items for the next Board meeting to be: 1) discussion and possible action for adoption of the continuing education programs rules, 2) discussion and final action on SOAH Docket No. #481-05-0884, 3) discussion and possible action regarding Board member liability insurance, 4) discussion and possible action regarding 22 TAC §851.80 Licensing Fees (a) Amendment to/establishment of temporary or one time licensure fee 5) the addition of a standing executive session, 6) the addition of an agenda item to include a summary of action items prepared by staff prior to the next Board meeting for Board members to learn their assignments, and 7) Compliance and Enforcement guidelines.

The Chairman moved to **Agenda Item W.**, Discussion of Date, Time and Location of Next Board Meeting. The date of May 20, 2005 at 10:30 AM was selected for the next Board meeting to be held in Austin, Texas.

The Chairman moved to **Agenda Item X.**, Adjournment. A motion was made by member Danny Perkins and seconded by member Rene Pena to adjourn. The motion carried unanimously. The meeting was adjourned.

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Rene Pena, Chairman  
Texas Board of Professional Geoscientists