

LOUISIANA BOARD OF PROFESSIONAL GEOSCIENTISTS

9643 Brookline Ave., Ste. 101, Baton Rouge, LA 70809



REGULAR MEETING OF LBOPG

Tuesday, March 8, 2018, 1:00 P.M.

Louisiana Engineering Society Building Conference Room
9643 Brookline Avenue, Baton Rouge, LA 70809

MINUTES

Chairman William Finley called the meeting to order at 1:10 p.m., Thursday, March 8, 2018. He commenced roll call.

Present: William Finley, Lloyd Hoover, Thomas Klekamp, L. Todd Perry, and Melanie Stiegler, Board Members; Harry Vorhoff, Legal Counsel; Brenda Macon, Executive Secretary; and Chantel McCreary, Assistant Executive Secretary.

Absent: William R. Meaney and Daisy Pate, Board Members.

Guests: Donna Sentell and Richard Savoie, LAPELS.

Quorum established. Roll Call sheet was circulated for signatures.

Meeting Minutes

Meeting Minutes of January 9, 2018, were reviewed. Perry moved to accept the minutes; Stiegler seconded. The motion passed.

Treasurer's Report

Klekamp presented the January 2018 / February 2018 treasurer's report and reported that the balance at the beginning of January was \$198,773.81, and the reporting period ending balance, as of February 28, 2018, was \$209,612.70. He presented a graphic illustration of the monthly beginning and ending balances, as well as expenses and deposits, from November 2014 through February 2018. The graph shows the cyclical nature of renewal income. He pointed out that the only anomalous expense for the two-month period was an unexpected \$87.89 credit card charge by Pitney Bowes. This expense, as explained by a Pitney Bowes representative, was a cumulative charge (at \$7.99 per add for 11 adds) for adding funds to the postage meter. A solution was discussed, with Klekamp moving to give the office staff permission to add \$1,000 to the Pitney Bowes postage meter at one time to limit these costs in the future; the motion was seconded by Hoover. The motion passed. Finley noted that both the expenses and deposits declined in the last two months; reasons for this trend were given by Macon, who pointed out, given that the number of expected and actual renewals are nearly equal, this trend is related to the fluctuating numbers of renewals at this period of the year. Klekamp agreed, stating the deposits line indicates revenue picks up as the year progresses. Perry expressed his opinion that the numbers of renewals by month at the end of the treasurer's report are useful and informative; he asked that numbers

for the entire year be included as well. Macon agreed to supply those additional numbers on future reports. Perry moved to accept the treasurer's report; Stiegler seconded. The motion passed.

Standing Committees

Application Review Committee: Stiegler reported grandfathered applicants still represent a large percentage of those on the list for approval. She announced that 31 candidates for full licensure were reviewed, and all, 1 through 31, were recommended for approval. She reported the committee had no applications for GITs during this period. Perry moved to accept the recommendations of the committee; Klekamp seconded. The motion passed.

Stiegler also mentioned that the changes the committee had requested to the reference response form have been completed. The reference response form now requests information on the reference's degree(s) and experience. She explained that the form is not retroactive but will provide much needed information on current and future applications. She also mentioned that these changes will help to expedite the review process by making it easier to determine when references meet the required qualifications. Discussion ensued, with those in the discussion giving positive feedback on these changes. Perry moved to accept the revisions to the application process; Hoover seconded the motion; the motion passed.

Finley wanted to clarify that references must be licensed; Stiegler said she did not think the references had to be licensed. She and Finley agreed that references working as academics are exempt, and Finley added that other exceptions were also made. He asked Vorhoff to check the legislative act to see what the exact requirements for references is. Vorhoff reviewed the rules and reported that Title 46, Chapter 9, part 911(A) states:

Applicants for a license shall provide to the board at least three references from professional geoscientists or other professionals acceptable to the board who have knowledge of the applicant's relevant work experience.

A brief discussion of what defines someone as a "professional geoscientist" ensued, with the consensus agreeing that such a person would be licensed or would meet the criteria of exceptions (academia, petroleum geologist, etc.).

License Examination Committee: Prior to the meeting, Meaney asked Macon to provide the two graphs he had prepared, which show, respectively, the relationship between those who took the Fundamentals of Geology and passed and those who took the Practice of Geology and passed. Macon relayed his comment that the graph will take on greater meaning as more candidates take the exams. She further reported that the spring 2018 ASBOG testing date is Friday, March 16. Louisiana has thirteen candidates sitting for the Fundamentals of Geology (FG) exam and three candidates sitting for the Practice of Geology (PG) exam.

Additionally, she reported one candidate who was approved by the board to take the FG was selected by his company to represent them in a three-to-six-month project in the Mediterranean after he had already ordered his exam. In a rare move by the ASBOG Executive Committee, that candidate was granted a deferral. Usually, ASBOG has a very strict policy of no refunds, transfers, or deferrals, but in this case, they were so impressed by the reason for the request to defer that they decided to make an exception.

Complaint Review Committee: Perry directed the attention of board members to the proposed rules for use of the Professional Geoscientist seal. He reported he had researched similar rules in several states, including Texas, Tennessee, Pennsylvania, and Alabama. He explained that LBOPG is at a point to require certain documents to be sealed by licensed Professional Geoscientists and added that the board must be

very careful in defining what work must be certified with the seal. He reviewed items 1 and 2 on the draft he presented with the board, pointing out how different documents would be stamped: Individual maps, drawings, cross sections, etc., must be individually stamped; however, bound reports would be stamped only on a title page or index sheet.

He then explained that geoscientific documents that provide interpretation or analysis should be required to be sealed by a licensed PG. He asked board members to attend to the list of example documents he had created. He conceded the list may overlap superficially with tasks performed by engineers but, he added, the list clearly defines what a professional geoscientist does.

The final paragraph of the draft document addresses the issue of when professional geoscientists become involved in Phase I, II, and III Environmental Site Assessments (ESAs). Phase I ESAs rarely require a PG stamp because they are surface evaluations; however, Phase II and III ESAs require subsurface work and interpretations and, therefore, require a PG stamp/seal.

Perry explained that this document may grow with time, as the need for revision arises. He then asked Vorhoff for his opinion on whether such a set of rules would require additional legislation. Vorhoff responded that this document is clearly interpreting the act and would fall into the category of rule-making. Perry then asked, if the board adopts the seal guidance document, that the board also take into account any other changes to the rules at the same time to minimize the cost of publishing new rules. He suggested the board review the rules during summer 2018 so the seal guidance would be in place by the end of the year.

Hoover began discussion of the content of the document by pointing out again the overlap in the specific tasks with the purview of engineers. Perry asked him which tasks were most likely to present confusion; Hoover said item 2, and particularly potentiometric surface maps, are often produced by engineers in the design and construction of dams. Perry agreed but pointed out that the level of the work would determine who would be responsible for sealing/stamping the final work. He also suggested that this draft is only a starting point for the rest of the board to contribute to the final draft language that will become the rule. Finley reminded the board that previous discussions have led to the determination that the list should not be too specific to avoid conflicts with other professionals, particularly engineers. Perry agreed and offered to simplify the list of examples requiring a PG stamp. Discussion ensued, with Vorhoff suggesting that the list may not be necessary and could be removed. Vorhoff asked how specific other states' rules regarding seal guidance are; Perry responded that he had created the list he had proposed directly from the rules from Mississippi and Texas and that the Pennsylvania rule is even more specific than the one he had drafted.

Regarding the first part of the proposed rule, Richard Savoie, assistant director of LAPELS, offered that the engineering board allows bound reports only to be sealed on the cover page of the report. Perry agreed with Savoie's suggestion as the most reasonable way to handle large reports with multiple pages of materials.

Finley asked Perry if he had a timetable in mind for implementing the rule, pointing out that, while it has made sense, from a cost perspective, in the past to delay making rule changes until several changes had accumulated, this rule needs to be added as soon as possible. Perry proposed editing the current draft with input from the board and the board's legal counsel and then introducing it to government entities,

such as DEQ, that would be affected by the rule. After consensus is reached, he said, the rule would then be widely announced for the required public comment period and set to be implemented by fall 2018.

Savoie brought up the issue of the way preliminary work is treated. He explained that, in the engineering rules, only completed work must be sealed, signed, and dated; the engineering rule mandates that preliminary work must have the seal but must have the word “preliminary” inscribed or written across that seal to indicate it is not yet considered to be complete. Savoie offered to send a copy of the engineering rule to Perry for his use in developing language in the rule that addresses preliminary work.

Vorhoff commented that Perry should be careful about sending the draft through email to avoid conflicts with the Open Meetings Law. Finley suggested that Perry work on incorporating the changes discussed; Perry made those changes during the meeting and presented them to the board. He added a third item to the beginning of the proposed rule that read: “Preliminary work would not require a PG stamp but would need to be marked ‘preliminary’ or ‘draft.’” Perry explained that, unlike the rule for engineers, he would rather not stamp the incomplete work at all. He also proposed, in the second half of the draft rule, to eliminate the list of examples. He indicated, as the board gathers more information and experience, the rule may change, but this initial rule will suffice for the moment. Klekamp moved to accept the draft with Perry’s changes; Hoover seconded the motion; the motion carried.

Vorhoff asked Finley if this rule should be added into the rules by itself or if the board was ready to make changes to other, existing rules during the same process to save future costs. Donna Sentell, director of LAPELS, explained that her organization just underwent rules changes. She said the changes must be submitted by the 10th of the month, any month, and there is a per-page fee. She explained that a public comment period of 20 days follows this draft publication, during which time, attorneys with the state register will also have the opportunity to review the draft and request edits. When the draft is considered final, the rule and any other changes will be published, again with another per-page fee charged. She estimated the entire process takes about 90 days. Sentell said the fee is about \$200 per page – twice. Discussion ensued. Vorhoff returned to the discussion of whether it would be necessary to include a list of example documents that require a seal; Perry explained that the final rule will have to be tweaked anyway during the public comment period, and simplified examples can be added then.

Perry then turned to the ASBOG Ethics Committee request for information on the way the Louisiana board handles ethics complaints and violations. The ASBOG committee sent a list of eight questions, and Perry had drafted responses to those questions. He presented a copy of those responses to the board and reviewed those responses. In addition to the questions, ASBOG sent a spreadsheet that shows the penalties imposed by ASBOG member states, including Louisiana. Perry added information on Louisiana’s ethics provisions and penalties and reviewed his responses with the board. He explained that these responses may change in the next three years, but for now the responses seem appropriate. He asked Vorhoff, who had worked with him on these two documents, for any additional comments; Vorhoff said Perry had covered it. Perry then asked the board for their comments and for formal approval of the two documents to return to the ASBOG Ethics Committee. Stiegler moved to approve; Klekamp seconded the motion; the motion passed.

Office Committee: Macon reported, following up on the board’s discussion at the January 9, 2018, meeting regarding ways to improve payments to vendors in a timely manner, she had contacted Campus Federal Credit Union representative Cindy LeJeune, who recommended the board upgrade from Business Basic services to Enhanced Business services. The enhanced services will allow the office staff to set up

payments to vendors, which then must be approved through the online portal by an authorized board member, in this case, Finley. Enhanced services will also allow the board chair to establish “roles” that include authorization of the office staff to create direct deposits through QuickBooks. This service, unlike Business Basic, is not free, however; charges will be a one-time \$25 setup fee and a monthly \$15 service fee. Macon then asked if the board would like to remain with Business Basic or upgrade to Enhanced Business; discussion ensued. Perry moved to authorize the board chair, Bill Finley, and Macon to upgrade to Enhanced Business services; Stiegler seconded the motion; the motion passed.

Macon then mentioned the three-year contract with Usable Creative on Internet security for the website, online application system, and database, has not yet been approved but should be completed soon. She also mentioned, after having received a notice from the Facility Planning and Control unit of the Louisiana Division of Administration regarding the April 30, 2019, expiration of the current lease agreement with the Louisiana Engineering Society (LES), she is working with Brenda Gajan, director of LES, to create a new lease agreement. She said the board has the option of requesting an option to renew when the new lease expires, which would extend that lease for an additional five years and asked the board for their decision on such an option.

She then reminded board members to complete the state’s required online ethics training for 2018 and to file their financial disclosure statements for 2017 by May 15, 2018. She directed them to the Board of Ethics website and Form 417.

Macon then deferred to McCreary, who reported to the board that the Brother color laser printer purchased in February 2017 is not efficient, especially for printing envelopes, and is expensive to maintain. Board members discussed solutions to this problem, with Finley suggesting the office staff investigate new printers. Klekamp moved to authorize the office staff to purchase another printer that will print multiple envelopes with a cap of \$300; Hoover seconded the motion; the motion passed.

Macon then reported she had researched board membership in the Federation of Associations of Regulatory Boards (FARB) and its merits and relevance for LBOPG. She also reported licensees have been watching legislation that may affect the board, and one of them sent a detailed email to ask the board to be vigilant. Board members discussed this issue and FARB membership; Sentell mentioned LAPELS has found their FARB membership to be beneficial. Perry moved to join FARB; Klekamp seconded; the motion passed.

Legal Counsel Comments/Other Business

If an error is made in recommending an applicant for licensure, what are the board’s options in rectifying that mistake (i.e., is the license agreement a contractual arrangement?)? (Continuation from previous meetings)

The consensus in January was to adhere to Vorhoff’s suggestion to send a certified letter, written by the Application Review Committee and reviewed by legal counsel, to the licensee to give that person an opportunity either to provide additional information to rectify the situation or to forfeit the license. Stiegler presented a draft letter in response to that decision. Vorhoff asked what mistake was made in approving this license. Discussion ensued regarding whether to go into executive session. Vorhoff responded that he would prefer to keep the discussion in general terms to avoid going into executive session and asked which qualification was in question. Stiegler responded that it was an educational qualification. Vorhoff then gave detailed information on how to word the letter to rescind the license based on the conflict with the educational requirement for licensure. Board members discussed the letter, with Stiegler informing the board of her findings as she researched the accreditation of the institution from which the licensee obtained his degrees. Board members agreed with the draft letter and

provided additional guidance, including setting the timeframe for written response at 30 days. Discussion ensued regarding what type of written response would be required. Perry mentioned established board protocol requires the respondent to send a certified letter; however, Vorhoff expressed the opinion that email also provides a reasonable paper trail. The board then voted to go into executive session to discuss this issue more fully with respect to the prospect and likelihood of litigation. No vote was taken nor decisions made during executive session.

If a person is qualified for the full license, is the person allowed to apply for GIT status?

Vorhoff rendered the opinion that “Geoscientist in Training” is a defined term that explicitly states a GIT is someone who is not fully qualified to be a licensed Professional Geoscientist. If someone meets the qualifications to be a licensed Professional Geoscientist, then that person cannot be a GIT. The board briefly discussed this opinion and fully agreed.

What constitutes valid courses and activities that count toward the 14 hours of continuing education?

Klekamp reported someone at a recent New Orleans Geological Society meeting announced that serving as a judge for school science fairs qualifies toward fulfilling the required continuing education hours for Louisiana licensure. Finley mentioned the board had previously decided it cannot authorize or reject any particular activity until it performs an audit. Discussion ensued, with Finley pointing out that the continuing education log sheet available on the LBOPG website provides detailed information on what activities will count and what credit will be given. Stiegler asked about the audit, and Finley mentioned the board announced in summer 2017 that an audit would be performed soon.

New Business

Licensing firms:

Hoover asked if the board would ever consider licensing firms. Finley and Perry mentioned that Texas licenses firms. Hoover pointed out that licensed firms make sure their employees are also licensed. Finley asked about the functionality of licensing firms. Perry explained the benefit is twofold: It increases revenue, and it ensures that firms cannot just “pop up” and then disappear because the firm must be registered as well as the individuals. He further explained this board must have the seal guidance in place and well established before it can contemplate licensing firms. Hoover added, in the case of engineers, individuals can practice with a license without a company, but if an individual sets up a firm, the firm must also be licensed. The consensus was that licensing geoscience firms is well into the future in Louisiana.

New board member:

Finley announced that Elizabeth (Liz) C. McDade was officially appointed as a board member on March 2, 2018. She replaces Art Johnson and represents the New Orleans Geological Society. She plans to attend the next board meeting on Tuesday, May 8, 2018. He also mentioned that a representative of the Baton Rouge Geological Society has yet to be appointed. A short discussion ensued.

Adjourn

The date of the next regular meeting of the board is Tuesday, May 8, 2018. Finley adjourned the meeting at 3:52 p.m.