

LOUISIANA BOARD OF PROFESSIONAL GEOSCIENTISTS

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



REGULAR MEETING OF LBOPG

Tuesday, July 14, 2020, 1:00 P.M.

Physical meeting at

Louisiana Engineering Center

9643 Brookline Avenue

Baton Rouge, Louisiana

and

Virtual Public Meeting Hosted on Zoom

MINUTES

Chair William Finley called the meeting to order at 1:10 p.m., Tuesday, July 14, 2020, and commenced roll call.

Present: William Finley, Lloyd Hoover, Elizabeth McDade, Todd Perry, William Schramm, Melanie Stiegler, and David Williamson, Board Members; Machel Hall, Legal Counsel; Brenda Macon, Executive Secretary; Chantel McCreary, Assistant Executive Secretary

Absent: None

Guest: Mark Fowler, videographer

Quorum was established. Roll Call and Visitor Sign-in are both physical and part of meeting registration record on Zoom.

Public Comment Period

No general comments were forthcoming; Fowler participated in the discussion of the proposed online ethics course.

Meeting Minutes

Minutes of the May 12, 2020 meeting were reviewed. Williamson moved to approve the minutes; Schramm and Perry simultaneously seconded. Finley called for discussion; there was none. He then called for a vote, and the motion passed unanimously.

Treasurer's Report

Schramm presented the treasurer's report for May and June. In May, the board had total expenses of \$6,690.93 and total deposits of \$8,691.83, with a balance in the checking account of \$204,214.96. In June, the board had total expenses of \$7,073.76 and total deposits of \$9,107.38, with a balance in the checking account of \$206,248.58. He pointed out that the balance of the account is gradually increasing, and he presented a graph showing this general trend.

He then turned the board's attention to the budget report for the end of the current fiscal year. He pointed out that actual revenue (\$140,671.69) was greater than that budgeted (\$133,550.00) and actual expenses (\$111,011.63) were less than that budgeted (\$133,550.00). Schramm pointed out a mistake on the report in object code 7020 (Bank and Credit Card Charges). Macon said charges to that object code were in error and stated that she would investigate the charges to that object code and report back in September regarding the actual use of those charges. Schramm drew attention to the postage expenses and suggested that the postage meter would need to be recharged, but he said he didn't think the staff needed board approval for the recharged. Macon then pointed out postage charges in the report and reminded board members that Thomas Klekamp had implemented a policy in 2018 of adding an annual \$1,000 postage recharge to the postage meter to avoid incurring several \$8 recharge fees throughout the year. She asked for the board's permission to continue that policy. The board concurred and indicated that staff could make the recharge without a board motion. Additional discussion ensued. Schramm continued his report on the fiscal yearend budget, pointing out that the board was \$29,660.06 underbudget for the ending fiscal year. Finley called for a motion to approve the report. Williamson moved to accept the report; Perry seconded. Finley then called for a vote. The report was approved.

Finley then brought to the board's attention a recent meeting with representatives from Capital One and that bank's proposed service agreement. He mentioned that, while the credit union where the board's accounts currently reside does not provide sufficient service, that institution does not charge fees. On the other hand, Capital One has proposed charging around \$60 per month in service fees, but he expects to receive better service. He said the credit union did not provide statements until July 8 for the balances ending June 30, which is unacceptable. While the board staff has been able to manage the accounts without the statements, the costs in staff time because of the delays in getting the statements out exceed the proposed Capital One fees. Macon expressed concerns about the change to Capital One because Capital One still will only allow one person to be the sole administrator of the accounts, which is also the largest existing problem with the credit union. Discussion ensued. Finley proposed opening accounts at Capital One to see if the change is better. Additional discussion ensued. Macon explained the process by which online payments are deposited into the board's account and expressed concerns about telling EVO International to change the institution into which deposits are made until the board decides that the change to Capital One will be permanent. Macon offered to contact the various entities to find options to the current system. Finley called for the board to decide whether to grant authorization to open accounts at Capital One. Schramm moved to transfer \$100,000 to checking and \$50,000 to savings at Capital One and to investigate the process to have EVO International switch to making online deposits to Capital One instead of the credit union. Williamson seconded the motion. The motion passed.

Standing Committees

Application Review Committee: Williamson reported that two applications for license were reviewed and recommended for board approval. A third license application was on hold until the work experience requirement is fully met. McDade asked about how graduate work counts toward the work experience requirement for examination candidates; other board members explained that two years of graduate work counts as two years of work experience. He also reported that six examination candidate applications had been reviewed and recommended for board approval. Williamson moved to accept the recommendations; Perry seconded. The motion passed.

Macon presented informational materials and a PowerPoint slide presentation drafts for the board's approval. She also mentioned that McDade had made a slide presentation to NOGS in the past as well. Williamson suggested sending the slide presentation to all state university geology programs; Macon

cautioned that those programs would most likely not use the presentation and suggested instead that board members who teach include the presentation in their course. Williamson then asked if the presentation could be used in geological society meetings and newsletters; Macon affirmed that idea. She reminded board members that the slide presentation had been emailed to all of them already and is theirs to use as they see fit. McDade suggested adding a few more slides, including possibly the legislative act. She introduced her presentation and talked about adding some elements to the PowerPoint presentation. Finley suggested finding a way to incorporate those elements.

In response to a request from Florida Gulf Coast University for review of its environmental geology degree program, Finley began discussion by advising against pre-approving degree programs. He cited the board's lack of resources, including staff, to monitor approved programs to assure that approved programs remain in compliance with board requirements and the possibility of programs changing without notice. McDade commented that, rather than certifying such programs, perhaps the board could respond that the curriculum could provide the adequate coursework as long as students take responsibility for selecting appropriate electives that would meet the board's requirements of at least 20 semester hours or 30 quarter hours of upper-level geology courses. Finley suggested sending the requesting party the board's list of academic requirements from the statute and allow that university to decide if their curriculum meets the requirements. Board members concurred, and additional discussion ensued.

License Examination Committee: Williamson and Macon reported that a total of 16 candidates are approved to take the ASBOG Fundamentals of Geology and eight candidates are approved to take the ASBOG Practice of Geology. Williamson also reminded the board that the examinations would be administered in a conference room at the Galvez Building (LDEQ) in downtown Baton Rouge.

Finley asked if any progress had been made in finding alternative testing sites. Macon explained that the agenda item was a reminder that the board had previously discussed the possibility of moving the test site based on the number of people in different geographical areas who were scheduled to take the examinations. She also mentioned that ASBOG is considering a move to online/electronic testing, which will require finding a facility that can accommodate secure testing. Discussion ensued, with Finley suggesting that Macon contact area universities to locate secure facilities. Macon said such facilities are available but cautioned that the cost for using them will be considerable.

Compliance Committee: On behalf of Committee Chair Perry, Schramm reported on the committee's previous meetings. He said that the continuing education review process is nearly complete, and six of the 20 licensees responding to the audit have passed, which is double the number from the 2019 audit. Of those who did not pass, the most common reason was that the courses they took did not count because they were not geoscience-based. He reported respondents were appreciative of the review, which indicated why certain courses did not count, even when they did not pass. The process, he said, helps licensees understand better what the board expects with regard to continuing education courses. He said the committee recommends making the 2021 audit year a trial period as well because of the pandemic and the uncertainties surrounding this situation. Williamson asked what was the greatest deficiency; Schramm said the lack of appropriate courses. Board members agreed respondents were still unaware of the types of courses they should be taking and communicating that information needs to be a priority. Schramm suggested making the continuing education log sheet an active, online file on the website for each licensee. Some discussion ensued.

Schramm then explained that the second action item on the committee's list was the seal use guidance document, including information on creating and using an electronic seal. He explained that he had an electronic version of his seal created; he and Macon then used the electronic file to create a secure seal that could then be affixed to a report and printed. The seal could then be signed and dated, just as with an embossed seal or a stamp. Macon pointed out that, in the committee's seal use guidance document, the use of the electronic seal does not specify that the electronic version must include an electronic signature. Discussion ensued. Williamson questioned the use of the word "preclude" in the document statement that reads:

Documents which require a seal may be transmitted electronically provide the licensee's seal and signature and the date the document was signed are transmitted in a secure mode that **precludes** the seal, signature and date being reproduced or modified. Examples of apps that provide a secure mode are DocuSign and Adobe Acrobat Pro. The Seal must follow the same design as the template provided by the board, with the licensee's name at the top and the license number at the bottom.

A consensus of board members agreed to add the word "reasonably" before "precludes" and to revisit the document later. The committee is working on additional edits to the guidance document and will present the draft at the September meeting.

Schramm then explained that the next action item on the committee's list is developing enforcement rules. He has been researching how other state boards approach enforcement, including fines, penalties, etc. Schramm said he is trying to find a matrix of the degree of violations and penalty tiers. The Texas board has such a matrix on their website. Hall explained that developing rules, fines, and penalties will not require new legislation but will require development of new rules. She said she would be looking at other boards' rules, including those of LAPELS and the Louisiana cemetery board for examples.

The final item the committee is considering is registration of geoscience companies. Hoover explained that a registered company is supposed to maintain on its staff a supervising geoscientist. If that company violates professional standards, both the company and the supervising geoscientist would be fined. He said the registration prevents outside entities without geoscientists on staff from coming into the state and hiring unqualified staff to perform substandard work without a supervising geoscientist who takes responsible charge. Such companies hire an individual to sign off on that work without having the ability to supervise it. Individual geoscientists would not have to register as a company unless they establish themselves as a company. Williamson agreed and further explained that having a supervising geoscientist on the staff of a registered company ensures that the geoscientists under his charge perform good work and maintain their licenses and continuing education. Finley asked if requiring companies to be registered would require additional legislation. Hall answered that it would.

Outreach Committee: Finley said he did not have time to convene a meeting during this period but had asked his committee, Williamson and McDade, to make suggestions for topics. He said he wants to create documents to define geoscience and the activities that geoscientists do that impact the public. He wants to disseminate that information to the public and the legislature and to have it on hand for opportunities to support the board's mission. He said he found an article that defines geoscience activities well; he proposed changing the board's mission to reflect this better definition. Schramm agreed and added the need to include support for licensed geoscientists in the statement. Additional discussion ensued.

Office Committee: Macon reported that both the Department of Justice contract for legal services and the L.A. Champagne contract for accounting services have been approved. She further reported that the staff

with Dovetail Digital, while having made significant progress on the website redesign and the database conversion from Business Catalyst to TREEPL, are not ready to make a presentation to the board.

Legal Comments

Hall explained that the chair had asked her to answer four questions:

1. Q: Are the employees of State agencies and those of its political subdivisions, agencies, and offices who practice geoscience as part of their official, non-research duties required to be licensed professional geoscientists under the Act?

A: Yes, while there is an exception for federal employees, there are no exceptions for state employees.

2. Q: Are geoscientific documents considered to be under the “responsible charge” of a government agency employee when said employee is reviewing it for official, non-research reasons?

A: Yes, as long as the employee is performing work that is regulated by the board.

3. Q: Does the LBOPG have the authority to review geoscientific reports or portions of reports required by municipal or parish ordinance, state or federal law, state agency rule, or federal regulation in order to determine whether such documents are geoscientific in nature? If so, may the LBOPG establish standards to apply to the application process for these engineering and environmental projects?

A: For the first part of the question, the board has the same right to examine public documents that any other member of the public has. Records can be requested by a standard public records request; public databases can be searched; and agency offices can be contacted to request information. For the second part of the question, the board cannot tell another agency how to establish its own standards, rules, and regulations. If, in regulating geoscientists, the board elects to establish rules and guidance, that is acceptable, but other agencies cannot be required to adopt those rules and guidance.

4. Q: May the LBOPG advertise its function to the public and regulatory agencies responsible for evaluating compliance, so they are informed about the importance of geoscience evaluations and aware of procedures and have access to contacts for reporting violations?

A: No, the LBOPG cannot “advertise” its functions; but it can present its mission and function to the public as an educational activity. Providing the public with information is acceptable.

Finley explained that the point of the questions was to help the board understand how to move forward with its mission. He said looking at the types of and quality of reports that are submitted will help the board determine how well its licensees are performing. Discussion ensued. Finley wrapped up the discuss by saying that Hall’s answers will help the board move forward.

Other Business

Feasibility of Creating an Online Ethics Course

At the beginning of the meeting, the board reviewed a draft of an online ethics presentation, "Ethics 4" that was created by Mark Fowler and housed on YouTube. The ethics course was originally presented by Schramm and an associate, George Losonsky, at the invitation of a private company. The video contains a confirmation slide that will allow licensees to send a code to the board office as proof of having participated in the entire video. Discussion ensued regarding the best method to allow licensees to provide verification of participation. The board agreed having participants answer four or five questions that are periodically changed would be a possible means to provide verification. Additional discussion ensued. The question arose regarding whether the board has the authority to create and expend funds on continuing education videos; the consensus agreed that licensees would benefit from having such courses available. Schramm concluded the discussion by calling upon board members to review the video in its entirety and send him comments and suggestions for improvements. Finley added a request for a list of questions to use for verification.

Policies and Procedures Development

Schramm reported that Macon had researched the board's minutes to find approved policies and found very few. Macon suggested that the best way forward would be to work with each committee to document the processes each of them use to accomplish their work. She used as an example the application review process and mentioned that she and Stiegler will be working to develop step-by-step instructions for reviewing applications. She explained that her reason for developing this policies and procedures guide is to document the board's decisions on such issues of interest to licensees as the use of electronic seals. Schramm asked Finley if he wanted to mandate that all committee chairs develop standard operating procedures (SOP) for all their major functions. Finley agreed. Schramm suggested creating a cover sheet with an "originator" (the committee chair) that the board signs off on it. Discussion ensued. Macon asked about the discussion regarding testing candidates to allow candidates to take the ASBOG exams until they pass them without reapplying. The board concurred with this statement. Macon asked about the previously discussed three-year rule on applications; Finley explained that the distinction is there must be activity within that three-year period. If so, the application is not lapsed. Macon said she was attempting to document these types of decisions so the board does not have to reconsider issues they have already discussed and on which they have already made decisions. Williamson added that this document will also add consistency to board actions.

New Business

House Concurrent Resolution 71

Hall reminded board members that HCR 71 requires boards that license businesses to defer license fees for 2020; the legislature also tasked the Legislative Auditor's Office with determining the boards with sufficient "reserve funds" on hand to sustain those boards without additional license fees for a year and a half. LBOPG was determined to be among those boards. Hall further reminded board members that she and Finley had drafted a letter to the appropriate legislators who had requested this report by the Legislative Auditor's Office. This letter explained that the board does not license businesses and that funding retained over annual operating expenses was to be used to make progress toward tasks and activities mandated by the statute that created the board. Without these funds, the board will be unable to reach those goals and achieve its mission. Discussion ensued.

Legislative Act 200

Hall explained that Act 200 expands on previous legislation that waived certain requirements for military or federal civilian personnel and their families seeking licenses in fields in which they were already licensed in some other state. She stressed that the statute supersedes any of the Board's own rules and regulations, thus the board should implement the statute regardless of whether it conflicts with the board's current rules. However, she said, the board does need to incorporate this legislation into its rules. Discussion ensued. She recommended allowing any current applicant who qualifies under the statute to demonstrate that they qualify and granting their license according to law if they demonstrate that they qualify. She also recommended reviewing other boards' regulations that they are currently drafting in response to this legislation and then developing regulations to implement the statute.

Licensee Privacy: Can contact information be provided to a third party?

Macon asked if licensees' email addresses could be shared with ASBOG for a survey. She said, while other information (name, business phone number, city in which the licensee works, and license number) is provided in the online roster, email addresses are not. Hall asked if the licensees have given explicit permission for their contact information to be provided to third parties; Macon said they have not. Hall concluded that the email addresses should be considered private information and not shared unless permission is given. She recommended sending all licensees a request to share their email addresses with ASBOG with the option to keep their information private. Discussion ensued. Macon then asked if, in the case of a public records request asking for the licensee roster, this information must be provided. Hall explained that private information can be redacted in some cases in accordance with privacy protection provisions in the public records statutes. Hall then suggested asking ASBOG to forward the survey information to the board office and then sending out the survey to licensees without sharing their private information. Macon agreed that approach would work well.

Board Officer Nominations

Macon reminded board members that nominations for board officers are normally made at the July board meeting for election in September. Finley offered to continue as chair, though, he said, he would be happy to turn the office over to someone else, if they are interested. Those board members who were present agreed they wanted to wait until September to reconsider this issue.

Adjourn

The date of the next regular meeting of the board is scheduled for Tuesday, September 8, 2020, at 1:00 pm. Williamson moved to adjourn; Schramm seconded the motion. Finley adjourned the meeting at 5:15 pm.