

## MINUTES

### BOARD OF PROFESSIONAL GEOLOGISTS GENERAL BUSINESS MEETING

Department of Business and Professional Regulation  
Board Conference Room  
1940 North Monroe Street  
Tallahassee, Florida 32399

January 28-29, 2004

#### CALL TO ORDER

Ms. Blackledge called the meeting to order January 28, 2004 at 1:00 p.m.

#### MEMBERS PRESENT:

Dawn Blackledge, PG, Chair  
Tom Scott, Ph.D., PG, Vice-Chair  
Donald McNeill, Ph.D., PG  
James Pease, PG  
Valerie Francisco, PG  
Stuart Smith

#### MEMBERS NOT PRESENT:

Gabrielle Enos, PG

#### OTHERS PRESENT:

John Knap, Executive Director  
Christa Patterson, Government Analyst  
Barbara Edwards, Board Counsel  
Eric Hurst, Prosecuting Attorney  
Jerry Wilson, Deputy Division Director  
Allen Brow  
Dr. Jon Arthur  
Michelle Underwood

#### REVIEW AND APPROVAL OF GENERAL BUSINESS MEETING MINUTES

##### September 23, 2003 General Business Meeting Minutes

The board reviewed the minutes and after discussion the following motion was made.

MOTION: Dr. Scott made a motion to approve the minutes.  
SECOND: Ms. Francisco seconded the motion and it passed unanimously.

October 29, 2003 General Business Meeting Minutes

MOTION: Dr. Scott made a motion to approve the October 29, 2003 minutes with corrections.

SECOND: Dr. McNeill seconded the motion and it passed unanimously.

Ms. Edwards asked the board if there were different terms to express "professional geologist." Ms. Francisco advised Ms. Edwards that the board did use different terms to express the title "professional geologist." Ms. Francisco stated that the board in the past agreed to use the term professional geologist or qualified geologist. Ms. Francisco stated that some states do not have licensure for the geology profession. The term professional geologist or qualified geologist may be a individual that meets the requirements for licensure but does not have a license but qualifies. Ms. Blackledge stated that the board in the future would need to be consistent with the way they use the terms.

**TASK FUNCTION FORM**

Ms. Blackledge reviewed the task function form with the board. It was noted that most of the tasks had been completed and some of the task will be discussed during the general business meeting.

**DISCUSSION/CONSIDERATION OF LEGISLATIVE REVISIONS FOR 2004**

Dr. Arthur and Michelle Underwood were present at the meeting. Dr. Arthur provided the board with a legislative update. Dr. Arthur advised the board that the Florida Association of Professional Geologist was supporting the following legislative issues: CCNA, water resources act (WRA), and the disciplinary function of the board as well as the geologist in training.

Dr. Arthur reported that the legislative language for the CCNA and the WRA language had been filed and was House Bill 513. Dr. Arthur stated that Representative Culp sponsored the bill. Dr. Arthur stated that the legislative language for the DBPR issues had not been assigned a number but was sponsored by Representative Jordan.

Dr. Arthur advised the board that the Florida Association of Professional Geologists hired Laura McLeod and Associates to handle their Legislative lobbying efforts.

Dr. Scott asked Dr. Arthur if the FAPG had raised enough money to cover their cost for the lobbying contract. Dr. Arthur stated FAPG was in need of an additional \$1000.00 to cover the cost of the contract. Ms. Blackledge asked how many members there were in FAPG. Dr. Arthur stated there were about 300 FAPG members.

Mr. Wilson advised the board that the Department would work with FAPG in support of the legislative language.

Ms. Blackledge advised the board that she was scheduled to meet with the Department Secretary in the morning and that she hopes Ms. Carr could provide her with an update on the Department's legislative package and it's status. Ms. Blackledge stated she would provide the board with a report in the morning.

The board requested a copy of the FAPG proposed legislative language. Dr. Arthur advised the board that he did not bring copies however, he would provide the board with a copy of the proposal later in the afternoon. Ms. Patterson stated she would make copies if Dr. Arthur provided the information. Dr. Arthur stated he would provide the information prior to the board recessing for the day.

Dr. Arthur asked the board if they were in support of the geologist in training proposed legislative language. Ms. Francisco stated that the board was in favor of the geologist in training program. Ms. Blackledge stated that the board had legislative language drafted for the geologist in training, however, at the last meeting the Department advised the board to take out the language due to financial impact. Ms. Blackledge stated that the board's goal was the disciplinary authority.

Dr. Arthur asked the board to vote on the record their support for the FAPG proposed legislative language.

Ms. Edwards advised the board that she did not feel it was appropriate for the board to vote on an issue they had not seen nor read. The board agreed and stated they would wait.

Ms. Blackledge stated she would table discussion of the proposed language to the following general business meeting day. The board thanked Dr. Arthur for his efforts.

Ms. Blackledge advised the board that included in their agenda material was a memorandum written by Laura Gaffney, Assistant Attorney General, dated December 11, 2001. Ms. Blackledge stated that Ms. Gaffney was the attorney in charge of unlicensed activity cases and that Ms. Gaffney had proposed legislative change to Chapter 492.112, Florida Statute, to resolve problems the Department was having with prosecuting geology unlicensed activity cases. Ms. Blackledge advised the board that the board had discussed the memorandum at their March 21, 2002 general business meeting held by conference call.

Ms. Edwards advised the board that Ms. Gaffney was not prosecuting anyone for geology unlicensed practice because she does not believe the Department has the authority due to the language in section 492.112.

Mr. Wilson advised the board that he met with Ms. Gaffney prior to the meeting. Mr. Wilson stated that Ms. Gaffney advised him that the current language had a glitch and that if she went to court she would not have good legal ground for the prosecution. Mr. Wilson advised the board that after discussion with Ms. Gaffney and other attorneys within the Department the decision was made to issue cease and desist orders to geology unlicensed activity cases.

Dr. Scott asked Mr. Wilson if Ms. Gaffney was going to go back and issue cease and desist orders to cases already closed by the Department. Mr. Wilson stated cease and desist orders would not be issued to cases that have been closed. Mr. Wilson advised the board that this would be the procedure for new cases.

The board reviewed Ms. Gaffney's memorandum and it was the consensus of the board and Ms. Edwards that the language was sufficient for the Department to prosecute geology unlicensed activity cases. Ms. Edwards advised the board that she would

support Ms. Gaffney's legislative proposal to eliminate Ms. Gaffney's concerns. The board agreed.

Ms. Blackledge stated that the board has not been successful with getting proposed legislative language passed through the legislature and she was concerned. Ms. Francisco stated that the changes should be submitted to the legislature this year and the board agreed.

Ms. Edwards asked the board if adding professional geology to section 492.112 (1)(a), F.S. would eliminate the problem. Ms. Edwards suggested adding the language " a person may not knowingly practice geology or professional geology unless the person is licensed." Ms. Edwards felt this language would be very clear.

Ms. Francisco stated that a person could practice geology without a license but could not practice professional geology without a license. Ms. Edwards asked Ms. Francisco what the difference was. Ms. Edwards stated she felt using the term professional means practicing for payment which means you were offering geological services.

Dr. McNeill stated that the practice of geology includes professional geology and felt using the term practicing professional geology would be correct.

Dr. Scott stated that if the action of doing geological work affects the health, welfare and safety of the public than it should be defined as professional geology and if it did not affect the health, welfare and safety of the public then it's not professional geology and does not require a license.

Ms. Blackledge stated that she felt the current language of section 492.112 (1)(a), F.S. was sufficient and could be enforced by the Department.

Mr. Pease stated that he agreed with Ms. Blackledge. Ms. Francisco stated she felt the language practice geology or professional geology would be appropriate.

After discussion, it was the consensus of the board that the current language was sufficient and the board requested that Ms. Edwards send Ms. Gaffney a letter requesting that she retract her opinion of section 492.112 (1)(a), F.S.

Mr. Arthur stated that if the board decided to request the change, he would work with the board to add it to the FAPG legislative package.

## **APPLICATION REVIEW**

The board reviewed 3 applications by endorsement and 17 applications by examination and after discussion the following motions were made.

MOTION: Dr. Scott made a motion to approve Ms. Poore's application for licensure by endorsement.

SECOND: Dr. McNeill seconded the motion and it passed unanimously.

MOTION: Ms. Blackledge made a motion to deny Dean McCartney's application for licensure by endorsement. Ms. Blackledge stated Mr. McCartney did not

provide documentation that the licensure exam in Georgia was substantially equivalent to the ASBOG exam.

SECOND: Dr. McNeill seconded the motion and it passed.

Dr. Scott and Mr. Pease opposed the motion.

MOTION: Dr. Scott made a motion to deny Lori Rosemore's application for licensure by endorsement. Dr. Scott stated Ms. Rosemore did not take a licensure examination.

SECOND: Mr. Pease seconded the motion and it passed unanimously.

MOTION: Ms. Blackledge made a motion to approve Alan Baker, Scott Beatson, Justin Chamberlain, Nancy Demonstranti, Miguel Garcia, Cory Henderson, Noah Kugler, Douglas McGone, Michele Nucci, Jennifer Phillips, Scott Purcifull, Kevin Rockett, Nicole Scoggins, and Steven Turner's application for examination.

SECOND: Dr. McNeill seconded the motion and it passed unanimously.

MOTION: Dr. Scott made a motion to deny Andre Glasbrenner's application for licensure by examination. Dr. Scott stated Mr. Glasbrenner did not meet the experience requirements.

SECOND: Ms. Francisco seconded the motion and it passed unanimously.

MOTION: Mr. Pease made a motion to deny Terry Virtue's application for licensure by examination. Mr. Pease stated Mr. Virtue did not meet the experience requirements.

SECOND: Mr. Stuart seconded the motion and it passed unanimously.

MOTION: Dr. Scott made a motion to approve William Waite's application for licensure by examination pending receipt of additional work experience and that Mr. Waite will have to wait and take the October 2004 examination.

SECOND" Ms. Blackledge seconded the motion and it passed unanimously.

### **ELECTION OF OFFICERS**

MOTION: Ms. Francisco made a motion to elect Dr. McNeill as Vice-Chair.

SECOND: Ms. Blackledge seconded the motion and it passed unanimously.

MOTION: Ms. Francisco made a motion to elect Dr. Scott as Chair.

SECOND: Ms. Blackledge seconded the motion and it passed unanimously.

Ms. Patterson passed out the FAPG legislative proposal. Ms. Blackledge asked members to review the material prior to the next day's meeting.

The board recessed at 4:45 p.m.

### **CALL TO ORDER/ROLL CALL**

Ms. Blackledge called the meeting to order January 29, 2004 at 9:00 a.m.

MEMBERS PRESENT:

Dawn Blackledge, PG, Chair  
Tom Scott, Ph.D., PG, Vice-Chair  
Donald McNeill, Ph.D., PG  
James Pease, PG  
Valerie Francisco, PG  
Stuart Smith

MEMBERS NOT PRESENT:

Gabrielle Enos, PG

OTHERS PRESENT:

John Knap, Executive Director  
Christa Patterson, Government Analyst  
Barbara Edwards, Board Counsel  
Eric Hurst, Prosecuting Attorney  
Jerry Wilson Deputy Division Director  
Allen Brow  
Dr. Jon Arthur  
Dr. Walt Schmidt

**REPORTS**

Chair Report- Dawn Blackledge

Ms. Blackledge advised the board that the meeting with Secretary Carr had been cancelled. Ms. Blackledge stated that she did meet with Mr. Biegalski regarding the Department's legislative package and the status of the boards' proposed legislation.

Ms. Blackledge stated that Mr. Biegalski advised her that the Department did not include the board's legislative language in the Department's package because FAPG already had a package. Mr. Biegalski stated that if FAPG package does not go through then the Department would attach the board's proposal somewhere else.

Ms. Blackledge stated she was concerned that the Department did not follow through with the board's request to support the legislative proposals.

Dr. Scott stated that legislative proposals are submitted months in advance and the board had their proposals ready prior to FAPG having their proposals ready and asked if the Department did not even plan to submit the board's proposal. Ms. Blackledge stated she was unsure.

Ms. Blackledge stated that the Department stated they would support the FAPG's lobbying efforts and if assistance or information was needed the Department would assist FAPG.

Ms. Blackledge stated that the board supports the FAPG language, however, the board had withdrawn the geologist in training proposed language. Ms. Blackledge stated that the goal was to obtain disciplinary authority.

The board shared their concerns that the Department did not submit its legislative proposal.

Dr. McNeill asked Ms. Blackledge if the Department notified the board of their decision not to include the board's proposed legislation in the Department's legislative package. Ms. Blackledge stated that the Department did not notify anyone on the board.

Mr. Biegalski asked the board to allow him the opportunity to address their concerns. Mr. Biegalski stated that the Department's goal was to assist the board with disciplinary authority. Mr. Biegalski stated that the Department did not have the authorization to have a stand-alone bill with the board's proposed legislative language. He stated that the plan was that if FAPG was not successful then the Department would add the language as an amendment to an approved bill.

Mr. Biegalski stated that the FAPG proposed language was reviewed by the Department and the final action authority language was included along with the geologist in training language. Mr. Biegalski stated that FAPG had already obtained sponsors and the Department would be working with FAPG in their lobbying efforts.

Mr. Biegalski suggested that the board review the FAPG proposed language and prioritize the order of the proposed language.

Mr. Biegalski viewed the two-way approach as an advantage to possibly get the language approved by the legislature. Ms. Blackledge asked Mr. Biegalski, for the record, if the FAPG legislative proposal fails then the Department would pick up the proposed language this session and add it to one of the Departments existing bills. Mr. Biegalski stated that was the Department's intention.

Dr. Scott advised Mr. Biegalski that he was disappointed that the Department did not communicate their intentions to the board.

Ms. Edwards asked Mr. Biegalski who gives the Department authority for a stand-alone bill. Mr. Biegalski advised the board that the Governor's Office had the approval authority.

Dr. Arthur asked Mr. Biegalski if the FAPG proposed language could be attached to an existing Department bill. Mr. Biegalski stated that the Department's bills are not related.

Ms. Edwards asked Mr. Biegalski what was a glitch bill. Mr. Biegalski stated that a glitch bill was more or less a clean up of language such as typo's or referring to a section of statute that no longer exists.

Ms. Edwards asked if adding the word professional would be considered a glitch bill. Dr. Scott asked Mr. Biegalski if he would consider that a glitch bill. Mr. Biegalski stated he would not consider adding professional as a glitch bill. Mr. Biegalski stated that there would still have to be a sponsor.

The board asked Mr. Biegalski if two bills had the same language could they both be submitted. Mr. Biegalski answered yes.

Ms. Blackledge asked Mr. Biegalski if she could contact the Department if FAPG runs into a problem with their legislative proposal. Mr. Biegalski asked Ms. Blackledge to notify him immediately if FAPG runs into problems.

Ms. Blackledge asked Mr. Biegalski to prepare a back-up plan in case FAPG runs into a problem.

Mr. Biegalski advised the board that when working with the Legislature things are never a done deal. Mr. Biegalski stated he would consider every option available to the Department. Ms. Blackledge asked the Department to proceed as if the FAPG proposed legislation was not going to go through and that the Department knows ahead of time which bill they are going to attach the board proposed legislative language to.

The board moved forward with the discussion and review of the FAPG proposed legislative language. The board reviewed first the unnumbered bill.

Ms. Francisco noted on page 2 that the \$250 language should be stricken out and add the language cover cost. Ms. Edwards suggested the language not to exceed the cost. Ms. Francisco stated that the cost of the exam would be rising. The board agreed.

The board discussed the geologist in training proposed language. Mr. Smith stated he could see costs to the board for this program. Mr. Pease stated he did not see any benefit to have a geologist in training program. Ms. Blackledge stated she did not support the language and that additional research was necessary. Dr. McNeill stated he would want to know if there was going to be cost for the geologist in training program.

Dr. Arthur stated that the FAPG community felt very strong about having a geologist in training program. Dr. Arthur stated that the program would promote a geology licensure career track, and will allow students right out of college to take the fundamentals portion of the ASBOG exam to get it out of the way, and would promote awareness of licensure.

Mr. Knap stated that there would be some cost to the Department to implement the program licensing system.

Dr. McNeill stated that he did not have much history information in regard to the geologist in training program and was not comfortable with voting on the issue. Mr. Pease and Mr. Smith agreed.

Dr. Schmidt stated that the board's responsibility was the safety of the public.

Ms. Edwards questioned if the geologist in training program would be voluntary or mandatory.

Ms. Blackledge stated she did not think it mattered if it's voluntary or mandatory if there was a fee involved.

Dr. Arthur asked the board for their opinion if the program should be voluntary or mandatory.

Mr. Pease stated there were too many unanswered questions and did not support the language.

Ms. Francisco stated she would support language to make the geology in training program mandatory. Dr. Arthur agreed and stated he would make the change to the language today if the board would support the language.

Dr. Authur stated that if the geologist in training program starts to hold the legislative package up, FAPG would retract the geologist in training language.

Ms. Francisco had a copy of the engineering in training language and she reviewed the language with the board. Ms. Francisco stated she did not feel the geology in training language would be a problem if it was set up like the engineering in training program which is mandatory.

Dr. McNeill asked the board if anyone could register to take the ASBOG exam. Ms. Francisco stated that in Florida you would have to be approved by the board prior to being scheduled for the exam. A candidate can not contact ASBOG and request to take the examination.

Ms. Blackledge asked each member to report their opinion of support for the geologist in training program and if it should be submitted with this year's legislative package as written.

Ms. Francisco, Dr. McNeill, and Dr. Scott supported a geologist in training program. Mr. Pease, Mr. Smith and Ms. Blackledge opposed supporting a geologist in training program.

Ms. Blackledge stated the board would not support the geologist in training language as written in the package.

It was the consensus of the board that the geology in training program could be discussed at a later date.

It was the consensus of the board to support the proposed final order authority language.

It was the consensus of the board to include Ms. Gaffney's proposed legislative changes to section 492.112 (1)(a) and (d), F.S.

Ms. Blackledge reported that the board agreed to change section 492.104 (2)(b), F.S. to read, "the examination fee shall be set by the board in an amount not to exceed the actual per applicant cost to the Department for development, purchase, and administration of the examination and strike out the language "not exceed \$250."

MOTION: Dr. Scott made a motion to approve changes to section 492.104(2)(b), F.S., and to move forward with the changes to the legislative proposed language.

SECOND: Ms. Francisco seconded the motion and it passed unanimously.

Dr. Scott stated that the changes were important but if the decision had to be made of its priority then the language could be removed.

Ms. Blackledge advised the board that the proposed language was drafted and submitted by FAPG and if any board member had suggestions or changes to the geologist in training language they could contact FAPG directly.

Dr. Schmidt asked if the board was in favor of the geologist in training concept.

Ms. Francisco, Dr. McNeill, Mr. Pease, and Dr. Scott were in support of the geologist in training concept.

The board reviewed House Bill 513 and the majority of the board was in support. Mr. Smith was not in support of House Bill 513.

Ms. Blackledge advised the board that she had completed a draft of the phase one letter and asked the board for their input. Ms. Francisco stated that the letter should indicate that the board considers phase one reports geology work and should either be completed by a licensed geologist or drafted under supervision of a licensed geologist. Ms. Blackledge stated she would provide a draft for approval at the April meeting.

Ms. Edwards asked Ms. Blackledge to forward a copy to her for review.

#### Board Counsel Report – Barbara Edwards

Ms. Edwards presented to the board proposed changes to Rule 61G16-8, F.A.C. The board reviewed her proposal and made some changes. After discussion the following motion was made.

MOTION: Mr. Pease made a motion to approve Ms. Edwards' proposal to Rule 61G16-8, F.A.C., as amended and move forward with rule adoption procedures.

SECOND: Dr. Scott seconded the motion and it passed unanimously.

Ms. Edwards brought to the board's attention that section 492.106 (1)(d), F.S. states that an endorsement candidate is required to take a laws and rules examination. Ms. Edwards advised the board that the Department is not administering a laws and rules exam and she suggested that they consider recommending a change to the statute. After discussion the following motion was made.

MOTION: Dr. Scott made a motion that the board propose changes to section 492.106 (1)(d), F.S. for the 2005 legislative session and since there is not a laws and rules exam than no laws and rules exam is required.

SECOND: Mr. Pease seconded the motion and it passed unanimously.

Ms. Francisco asked that the proposal be placed on the task function form as a reminder to request the change for the 2005 legislative session.

#### Financial Report – Dawn Blackledge

Mr. Knap reviewed with the board the operating account financial report and an unlicensed activity financial report. Mr. Knap advised the board that staff had calculated 5-year projections but the accounting office had not finalized the report.

Dr. McNeill asked Mr. Knap if the cash sweep report been released. Mr. Knap stated the report had not been released.

#### Prosecuting Attorney Report – Eric Hurst

Mr. Hurst stated there were three (3) cases and those cases had not been resolved.

Ms. Francisco asked that the prosecuting attorney's report be available on the web page.

Dr. McNeill asked Mr. Hurst if a geologist is employed by the County and realizes as part of the work that there is unlicensed activity taking place, is the licensee required to submit a compliant. Mr. Knap stated Chapter 455, F.S. states if the licensee is aware then it's their duty to report the activity to the Department.

#### Executive Director's Report – Mr. Knap

Mr. Knap advised the board that he had provided in their agenda materials a detailed report of all geology cases.

### **NEW/OLD BUSINESS**

Review of the Final Draft of the Traditional Tasks Performed by Florida Professional Geologists.

MOTION: Ms. Blackledge made a motion to approve the traditional tasks performed by Florida professional geologist.

SECOND: Ms. Francisco seconded the motion and it passed unanimously.

The board instructed Ms. Patterson to request that the form be available on the web site and to include the information in the next newsletter.

Ms. Francisco reviewed with the board the October 2003 ASBOG exam results.

Mr. Pease advised the board that he would like to recommend changes to the application forms and to the application instructions. Mr. Pease stated he would like to see a definition of other qualified geologist.

Ms. Blackledge instructed staff to include a copy of the application package on the next agenda for discussion and possible revisions to the application.

Dr. Scott stated that he would like to discuss section 492.108 (1)(d), F.S., at the next meeting. Dr. Scott stated that he feels the board may be penalizing people who had

taken and passed a licensure examination prior to the ASBOG exam being administered.

The board instructed Ms. Patterson to add to the April agenda the discussion of section 492.102 (4), F.S.

There being no other business the meeting adjourned at 12:35 p.m.