

MINUTES

BOARD OF PROFESSIONAL GEOLOGISTS GENERAL BUSINESS MEETING

Sheraton Suites Tampa Airport
4400 West Cypress Street
Tampa, Florida 33807

April 21-22, 2004

CALL TO ORDER

Dr. Scott called the meeting to order April 21, 2004 at 1:00 p.m.

MEMBERS PRESENT:

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

MEMBERS NOT PRESENT:

All present.

OTHERS PRESENT:

John Knap, Executive Director
Christa Patterson, Government Analyst
Barbara Edwards, Board Counsel
Eric Hurst, Prosecuting Attorney

REVIEW AND APPROVAL OF GENERAL BUSINESS MEETING MINUTES

January 28-29, 2004 General Business Meeting Minutes

The board reviewed the January 28-29, 2004 minutes and after discussion the following motion was made.

MOTION: Ms. Blackledge made a motion to approve the January 28-29, 2004 general business meeting minutes.

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

REVIEW OF THE TASK FUNCTION FORM

Dr. Scott reviewed the task function form with the board.

DISCUSSION OF 492.116, F.S., AND 492.1165, F.S. – Tom Scott

Dr. Scott advised the board that included in their agenda materials was a copy of an email response written by Dr. Walt Schmidt. Dr. Scott stated that Charles Williams, from DEP, emailed Dr. Schmidt some questions regarding the Professional Engineer's exemption section of 492, Florida Statutes. The board reviewed Dr. Schmidt's response and noted that they were not provided a copy of Mr. Williams original correspondence to Dr. Schmidt.

Dr. Scott advised the board that if an Engineer is "qualified" in geology as defined in Chapter 492.102 (5), F.S., the engineer could practice geology. Dr. Scott stated that it was his understanding that the Board of Engineers does not regulate the exemption and that the Board of Professional Geologists does not have the authority to monitor the exemption.

Ms. Enos stated that she felt the question was how does the board define "qualified geologist." Dr. Scott stated that Dr. Schmidt explained to him that a "qualified geologist" means a person who has completed all the education and experience requirements but does not hold a license as a geologist. Dr. McNeill stated he felt the language should be changed to "qualified in geology." Ms. Enos stated she felt the language "qualified geologist" would be hard for the board to monitor and enforce.

After discussion it was the consensus of the board that the Board of Engineers would not support a change. Mr. Knap advised the board that if a licensed Engineer steps outside the scope of their practice then they would be in violation and would go through the complaint process.

Ms. Edwards reviewed with the board section 492.102 (5), F.S. Ms. Edwards stated she felt the statute should be changed to read "qualified in geology".

The board agreed with Ms. Edwards and stated the board should consider legislative changes. Mr. Smith stated that if there is public harm then legislative changes should be considered.

After board discussion Dr. Scott asked the board if the board was aware of a situation where professional geological work was being conducted by unlicensed individuals within engineer firms. Ms. Enos and Ms. Francisco stated they were concerned that there was geological work being performed by unlicensed individuals in engineering firms.

Dr. Scott stated that until there were complaints submitted there was not any documentation of a problem.

Ms. Enos suggested that the board consider drafting a newsletter article regarding the issue. Ms. Edwards stated she would suggest in the future Dr. Schmidt use the term "qualified geologist" in his correspondence.

Ms. Edwards stated she would draft a newsletter article for Ms. Blackledge to review. Dr. Scott asked Ms. Edwards to provide a copy of the draft to Ms. Patterson so the draft could be placed on the July 2004 agenda for discussion and review.

Ms. Blackledge asked Dr. Scott if the board was going to move forward with proposed legislative changes to 492.102 (5), F.S. Dr. Scott stated not at this time. Dr. Scott advised the board that they would discuss the issue again at the July meeting.

Dr. Scott stated he would speak to Dr. Schmidt about using the term “qualified geologist.”

DISCUSSION OF 492.102 (4), F.S.

The board did not take any action on section 492.102 (4), F.S., but stated the change to add professional to the definition of geology was in the 2004 legislative package.

Dr. Scott advised the board that during the January 2004 meeting the board voted to deny a Georgia endorsement candidate due to the examination taken Georgia was not substantially equivalent to the ASBOG exam. Dr. Scott stated that he felt that since the board in the past had accepted the Georgia exam as equivalent to the ASBOG exam that the board should have accepted the Georgia exam. Dr. Scott asked the board to discuss 492.108 (1)(d), F.S. Ms. Enos stated that the board in the past had accepted the Georgia exam as being equivalent.

Mr. Pease asked Ms. Enos if the past board members kept a log. Ms. Enos advised Mr. Pease that she was unaware of a kept log. Ms. Patterson advised the board that she has been employed with the board since 1999 and has never seen a log.

Dr. Scott stated the board would need to consider a resolution regarding the acceptance of state exams. Ms. Enos stated that the board should reconsider Mr. McCartney’s endorsement application that was denied at the April 2004 meeting.

Mr. Pease advised the board that since there was not a log kept, he was not in favor of giving blanket approval to out-of-state exams. Ms. Enos stated for the record, that she recalled the board in the past approving the Georgia exam as an exam that was equivalent.

Ms. Patterson stated that in the past it was the consensus of the board that each application be reviewed on an individual basis.

Ms. Enos stated that the board in the past accepted Southeastern State exams. Ms. Enos stated that there wasn’t a written policy by the board but felt if the board changed now that it would open a door for lawsuits. Ms. Edwards suggested that the board consider establishing a list.

Dr. Scott asked Ms. Enos to provide a list of the states that have acceptable exams. Dr. Scott asked Ms. Patterson to include the list on the July agenda.

Dr. Scott advised the board that Dean McCartney’s application by endorsement would be reconsidered during the application review procedures. Ms. Blackledge stated she felt that the board picks and chooses what they want to use from past board procedures and she would not vote again on Mr. McCartney’s application. Ms. Francisco stated she did not agree and felt that there was reliable information for the board to consider.

REVIEW OF THE APPLICATION FOR LICENSURE AS A GEOLOGIST

Ms. Patterson advised the board that she included in their board member folder suggested changes to the applications. Ms. Patterson advised the board that during the re-engineering process the application forms were revised to be standard. Mr. Pease asked that the geological experience verification form be revised to request more information regarding qualified geologists. Mr. Pease gave an example of requesting that the licensee seal the experience verification form.

Ms. Edwards suggested that the geological experience verification form be revised to take out the word respondent and change, to read, verifying employer/qualified professional.

Ms. Enos suggested that the geological experience verification form be two sided. Ms. Patterson stated that the form is available on the Internet and is printed one sided.

Dr. Scott asked Ms. Edwards to review the application and provide Ms. Patterson any suggested changes and forward the changes to the Department for revisions.

After discussion and review the following motion was made.

MOTION: Mr. Pease made a motion to move forward with Ms. Edwards changes and submit suggested changes to the Department for revisions.

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

Dr. McNeill requested copies of past board meeting minutes. Dr. McNeill stated that he felt the information would be helpful historical information. Ms. Patterson stated she would provide Dr. McNeill with the information.

REPORTS

Chair Report

No report

Board Counsel Report

Ms. Edwards advised the board that she had responded to Ms. Gaffney's memo regarding 492.102 (3)(7), F.S. Ms. Edwards provided a copy to the board.

Ms. Enos asked Ms. Edwards if Ms. Gaffney was going to follow the board interpretation of 492.102 (3)(7), F.S. Ms. Edwards advised Ms. Enos that Ms. Gaffney would be moving forward with unlicensed activity cases.

Ms. Edwards advised the board that rule 61G16-8.001, F.A.C., had been reviewed and approved by the board at the January meeting. Ms. Edwards advised the board that she conducted a second review and made some changes for clarity. Ms. Edwards asked the board to review the revisions she had made.

MOTION: Mr. Pease made a motion to approve the proposed language as presented.

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

Ms. Edwards asked the board that if in the future she noted minor changes to a rule could she move forward with the minor changes without bringing the changes back to the board for review. Ms. Edwards advised the board that bringing minor changes back for board review delayed the rule noticing process.

MOTION: Dr. McNeill made a motion to authorize Ms. Edwards to move forward with minor substance changes to rules and present the changes to the next board meeting.

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

Finance Report – Dawn Blackledge

Ms. Blackledge asked Mr. Knap to review the Operating Account and Unlicensed Activity Account reports with the board. Mr. Knap reviewed the reports with the board and advised the board that the reports included the cash sweep.

Prosecuting Attorney's Report – Eric Hurst

Mr. Hurst reviewed his report with the board and advised the board that the Probable Cause Panel has been scheduled to meet May 4, 2004.

Communications – Gabreille Enos

Ms. Enos advised the board that it was time to start drafting the next newsletter. Ms. Enos asked the board to provide newsletter articles to Ms. Patterson as soon as possible. Ms. Enos stated that if the proposed legislation was passed during the session that the changes could be included in the newsletter. The board agreed.

Executive Director's Report – John Knap

Mr. Knap advised the board that he had contacted the Department's legislative office to request the status of the bill. Mr. Knap provided the board with a copy of the legislative calendar. Mr. Knap advised the board that the calendar provided information on the progress of the bill. The board was pleased with the bill progress.

Dr. Scott advised the board that the CCNA and WRA legislative bill will not be considered during this session. Mr. Knap stated HB 911 would change or add professional and give the board disciplinary authority.

Mr. Knap asked Mr. Hurst to review the disciplinary process with the board. Mr. Hurst advised the board that instead of the Department handling the disciplinary procedures the board will have that authority and cases that the probable cause panel finds as probable will be brought before the full board for review of disciplinary action.

Ms. Edwards advised the board that she would provide legal guidance to the board during the disciplinary procedures.

Mr. Knap suggested that the board consider drafting disciplinary rules to review and consider at the July 2004 meeting. Ms. Edwards advised the board that other professions have disciplinary rules already in place and suggested that the board review disciplinary rules already adopted. The board agreed.

Dr. Scott asked Mr. Pease and Ms. Edwards to work together on drafting some disciplinary rules for the board to review at the July meeting.

Mr. Knap reviewed with the board the Operating and Unlicensed activity financial reports.

Mr. Knap advised the board that the Department conducted an audit on geology unlicensed activity. Mr. Knap stated that the Department uncovered two unlicensed businesses.

The board asked Mr. Knap how current the Internet information was with identifying the geologist of record. Some members stated they have noted information on the Internet verifies more than one geologists of record. The board stated they did not feel the information was being properly updated. Mr. Knap stated this was a license maintenance issue and would have to check with the Department.

The board shared their concerns that there were geology businesses operating without a geologist of record. The board asked Mr. Knap to notify the Department that they would like an audit to be conducted. After discussion the board asked that the audit be conducted after the next renewal.

CORRESPONDENCE

Paul Heesch

Ms. Edwards advised the board that the correspondence was forwarded to her from the Professional Engineers Board. Ms. Edwards asked the board to review the correspondence. After review it was the consensus of the board that additional information was necessary in order for the board to give an opinion if the geologist was practicing outside the scope of his or her practice.

Ms. Enos stated that based on the information provided in the letter she felt that geo-technical engineering was the practice of licensed Engineers not licensed Geologist. The board agreed.

Ms. Edwards advised the board she would respond.

OLD/NEW BUSINESS

Ms. Francisco advised the board that a Tampa causeway under construction collapsed. Dr. Scott stated news reports indicate that there was a sinkhole under one of the pilings and that the causeway was elevated. Ms. Francisco stated the causeway sank and damaged equipment but did not harm anyone that she knew of. Mr. Pease stated the design engineer was Fig Engineering. Mr. Pease advised the board that the case was still under investigation.

Dr. Scott advised the board that Ms. Linda Godfrey, from DEP, proposed a question in regard to what signature is required for an ESA certification. Dr. Scott stated she asked if a professional engineer or professional geologists should sign an ESA certification. Dr. Scott stated Dr. Schmidt responded by advising her that a Environmental Site Assessment is a process used by government agencies and lending industries regarding their political liability of property in case contamination is later found. Dr. Schmidt stated there is a training program for this assessment. The board did not take any action.

FINALIZATION OF THE PHASE ONE LETTER – Dawn Blackledge

Ms. Blackledge provided the board with a copy of the phase one letter and asked the board for their comments. Ms. Enos commented that she felt the past case should be referenced in the conclusion of the letter. After discussion Ms. Edwards advised the board that they could not send out an opinion without following guidelines. Ms. Blackledge advised Ms. Edwards that the question of who can conduct a phase one report comes up frequently.

Ms. Edwards advised the board that there are three ways the board could express their opinion. Ms. Edwards stated that the board could express an opinion when, it has a case or controversy, when a person petitions the board for a waiver or variance, or when a person submits a written request for a declaratory statement.

Ms. Edwards suggested using the phase one letter as a newsletter article. Dr. Scott asked Ms. Edwards to forward the requirements for a declaratory statement to him and he would forward the information to Dr. Schmidt. Ms. Edwards stated the board could request the newsletter be mailed to any interested party.

Ms. Blackledge stated that there is a problem with unlicensed individuals completing phase one reports and phase one reports should be signed and sealed by licensed professional geologists. After discussion it was the consensus of the board to include the phase one information in the newsletter and Ms. Enos will provide Ms. Patterson with an additional mailing list. Ms. Edwards suggested that Ms. Blackledge change the title of the phase one letter to exclude opinion.

Ms. Enos asked Ms. Patterson to make sure all Department Divisions were made aware of her recent address change. Ms. Patterson stated she would follow-up.

Dr. Scott adjourned the general business meeting at 4:45 p.m. and stated the board would reconvene April 22, 2004 at 9:00 a.m.

Dr. Scott called the meeting to order April 22, 2004 at 9:00 a.m.

MEMBERS PRESENT:

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

Gabrielle Enos, PG

MEMBERS NOT PRESENT:

All present.

OTHERS PRESENT:

John Knap, Executive Director
Christa Patterson, Government Analyst
Barbara Edwards, Board Counsel
Eric Hurst, Prosecuting Attorney

APPLICATION REVIEW

Dr. Scott advised the board that at the January 2004 meeting the board discussed other state exam equivalencies. Dr. Scott advised the board that he knew that in the past the board has accepted other state examinations as substantially equivalent to the ASBOG examination. Ms. Enos agreed and stated she knew that the board has accepted other states licensure examinations.

After discussion Ms. Patterson advised the board that she would contact ASBOG to request a list of States that administer the ASBOG exam and the month and year the stated started administering the exam.

Mr. Smith asked staff if it would be possible to work with the Department on options for the board's web page. Mr. Knap stated he would contact the Departments web staff and ask that a representative contact him.

Dr. McNeill asked the board if they had accepted the 1996 California examination as equivalent. After discussion it was the consensus of the board that the 1996 California examination was equivalent.

The board reviewed two (2) applications for examination, eight (8) applications for endorsement, and one application that was denied at the last meeting was reconsidered. After review and discussion the following motions were made.

MOTIONS: Ms. Blackledge made a motion to approve pending, Fernando Ferreira's application for licensure by examination. Ms. Patterson will call employer to confirm ongoing employment.

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

MOTION: Ms. Blackledge made a motion to approve David Rojas application for licensure by examination.

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

MOTION: Ms. Francisco made a motion to approve Kenneth Earnest, Douglas Gouzie, Brian Kumam, Andre McThenia, Colleen Myers, Michael Taylor, and Christopher Krambis for licensure by endorsement.

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

MOTION: Ms. Francisco made a motion to deny Roger Baldwin's application for licensure by endorsement. Mr. Baldwin lacks proper out of state license verification.

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

MOTION: Mr. Pease made a motion to vacate Mr. Dean McCartney's notice of intent to deny and that Mr. McCartney passed a equivalent licensure examination.

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

MOTION: Ms. Francisco made a motion to approve Mr. McCartney's application for licensure by endorsement.

SECOND: Ms. Enos seconded the motion and it passed.

Ms. Blackledge and Mr. Pease opposed the motion.

There being no other business the meeting adjourned at 10:35 a.m.