

**VIRGINIA BOARD FOR
WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE
SEWAGE SYSTEM PROFESSIONALS**

MINUTES OF MEETING

The Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals met on April 16, 2015, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 4, Richmond, Virginia 23233.

The following members of the Board were present:

John Aulbach, II, Chair
Kornell Davis, Jr.
Barry T. Dunkley
D. Perry Greene
E. Brooke Philpy
D. Wayne Staples
Kristen Lentz
Gary Schafran

Board members Michelle Ann Magrino (Vice Chair) and Thomas Fore were not present at the meeting.

DPOR staff present for all or part of the meeting included:

Jay W. DeBoer, Director
Nick Christner, Deputy Director for Regulatory Programs and Compliance
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Kristin Marie Clay, Board Administrator
Emily Trent, Administrative Assistant

Elizabeth Peay from the Office of the Attorney General was present.

Finding a quorum of the Board present, Mr. Aulbach, called the meeting to order at 9:00 a.m. **Call to Order**

Ms. Henshaw advised the Board of the emergency evacuation procedures. **Emergency Evacuation Procedures**

Mr. Davis moved to approve the agenda. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Greene, Lentz, Philpy, Schafran and Staples. **Approval of Agenda**

Mr. Dunkley moved that the Board approve the minutes of the January 29, 2015, Board meeting and the March 12, 2015, Board meeting. Mr. Staples seconded the motion which was unanimously **Approval of Minutes**

approved by: Aulbach, Davis, Dunkley, Greene, Lentz, Philpy, Schafran and Staples.

Mr. Aulbach opened the floor for public comment. The Board was provided with written comments submitted by Patrick Racey, PE, and Jeff Walker on behalf of the Virginia Association for Professional Soil Scientists.

Public Comment
Period

Ken Carbaugh, was present to address the Board. Mr. Carbaugh encouraged the Board to establish a requirement for a seal. Mr. Carbaugh also stated that he found the minimum requirements for journeyman licensing sufficient.

James Slusser, was present to address the Board. Mr. Slusser addressed his concerns with regulatory review and finds a critical component missing regarding competency measures. Mr. Slusser also suggested that regulants may be better served under a Memorandum of Understanding with the APELSCIDLA Board to receive consistent and fair regulation.

Jeff Walker, was present to address the Board. Mr. Walker expressed concerns with the number of complaints brought to the Board without resolution. Mr. Walker stated that he believes there is a dual standard and trade organizations are influencing the regulatory process. Mr. Walker expressed his feelings that the Board is off track and has sent written correspondence to senior staff and the Director of DPOR voicing those concerns. Mr. Walker would like to see a Standard of Practice, as in the VAPSS constitution. Lastly, Mr. Walker would like contract provisions to be required in the regulations to safeguard the public and licensees.

Bob Marshall, AOSE, was present to address the Board. Mr. Marshall supports his colleagues and the views expressed during Public Comment regarding events at the Board and Regulatory Review. Mr. Marshall stated that the Board isn't listening to their concerns. Mr. Marshall expected a workgroup to be formed during the regulation review process. Mr. Marshall feels there is no standard of care and it is unclear what actions the Board finds negligible. Mr. Marshall stated that he is dissatisfied that the regulations have not moved forward in the regulatory process. Mr. Marshall would like to see design definitions and descriptions included like they are in the APELS regulations. Mr. Marshall said in closing that he would like professionals from VAPSS, VAOSE, VEHA and VOWBA to participate equally in the regulatory process.

Rob Charnely, AOSSO, was present to address the Board. Mr.

Charnely stated that he supports a seal consistent with other design professionals.

In the matter of **File Number 2015-01774, Tyrone Copeland**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and Presiding Officer's Summary and Recommendation. Mr. Copeland, applicant, was present and addressed the Board. Mr. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Copeland's application for a Class 3 Wastewater Works Operator license. Mr. Schafran seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Greene, Lentz, Philpy, Schafran and Staples.

File Number 2015-01774, Tyrone Copeland

In the matter of **File Number 2015-01783, Charles J. Smith**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and Presiding Officer's Summary and Recommendation. Mr. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Smith's application for a Class 4 Wastewater Works Operator license. Mr. Schafran seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Greene, Lentz, Philpy, Schafran and Staples.

File Number 2015-01783, Charles J. Smith

In the matter of **File Number 2015-01773, Harry Buchanan**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and Presiding Officer's Summary and Recommendation. Mr. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Buchanan's application for a Class 1 Wastewater Works Operator license. Mr. Schafran seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Greene, Lentz, Philpy, Schafran and Staples.

File Number 2015-01773, Harry Buchanan

Ms. Henshaw provided an update on the Regulatory Review process for Waterworks and Wastewater Works Operators Regulations and Onsite Sewage System Professionals Regulations. A handout was provided stating the action, current stage and next steps for the following:

Update on Regulatory Review Processes

- Amend Definitions of Supervision, SDS Experience and Document Requirements for Installers;
- Regulatory Reform (Review pursuant to Governor's Regulatory Reform Initiative);

- Fee Adjustment; and
- General Regulatory Review

Mr. Davis presented the Education and Training Committee Report to the Board.

**Report from
Education and
Training
Committee**

Ms. Henshaw advised the Board that Mr. Davis was elected Chair of the Education Committee.

Ms. Henshaw updated the Board on the OSSP Application Workshops and other outreach opportunities. Ms. Henshaw also advised the Board that she and Ms. Clay attended the 2015 Virginia Rural Water Association Conference held in Roanoke, Virginia.

**Update on OSSP
Application
Workshop and
Other Outreach
Opportunities**

Ms. Clay presented the Board with a memorandum on the results from the 2014 CPE audit for wastewater works operators. The majority of audited licensees were found to be in compliance. Those individuals not in compliance were sent additional correspondence from the Board.

**Memorandum on
2014 CPE Audit for
Wastewater Works
Operators**

Ms. Henshaw discussed with the Board the formation of an examination exploratory committee. The committee would ideally consist of at least three to five Board members. Mr. Dunkley moved to form an Examination Exploratory Committee. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Greene, Lentz, Philpy, Schafran and Staples.

**Discuss Formation
of Examination
Exploratory
Committee**

Board members can volunteer for the Committee at the upcoming Board meeting in May.

The following resolutions were presented for consideration by the Board.

**Consideration of
Resolutions for
Service**

Resolution for

BETTY JONES

WHEREAS, **Betty Jones** has faithfully and diligently served as the Administrative Assistant to the Board for Wastewater Works Operators and Onsite Sewage System Professionals from 2012 to 2015, and the Department of Professional and Occupational Regulation from 1971 to 2015;

WHEREAS, **Betty Jones** has devoted generously of her time,

talent and leadership to the Board;

WHEREAS, **Betty Jones** has endeavored at all times to render assistance and advice to the Board with fairness and good judgment in the best interest of the citizens of the Commonwealth; and

WHEREAS the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System professional wished to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professional this sixteenth day of April 2015, that **Betty Jones** be given all honors and respect due for her outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held by this Board.

Resolution for

RONALD R. THOMAS

WHEREAS, **Ronald R. Thomas** has faithfully and diligently served as a member of the Board for Wastewater Works Operators and Onsite Sewage System Professionals from 2007 to 2015.

WHEREAS, **Ronald R. Thomas** has devoted generously of his time, talent and leadership to the Board;

WHEREAS, **Ronald R. Thomas** has endeavored at all times to render assistance and advice to the Board with fairness and good judgment in the best interest of the citizens of the Commonwealth; and

WHEREAS the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System professional wished to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage

System Professional this sixteenth day of April 2015, that **Ronald R. Thomas** be given all honors and respect due for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Mr. Aulbach made a motion to adopt the resolutions. Mr. Greene seconded the motion. The motion was withdrawn. A motion was made by Mr. Davis to adopt the resolutions. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Greene, Lentz, Philpy, Schafran and Staples.

Ms. Henshaw reviewed the Quarterly Examination Statistics Report with the Board members. The Board members discussed the pass ratio.

Quarterly Examination Statistics Report

The Board discussed “direct supervision” as it relates to waterworks and wastewater works operators. The question has arisen regarding the parameters by which an operator-in-charge can remotely provide the necessary supervision of the waterworks or wastewater works. The Board agreed that, at a minimum, the operator-in-charge needed to be accessible – written instructions left by the operator-in-charge is not sufficient - and that no changes in operations could be made by a subordinate without consultation with the operator-in-charge. After much discussion, the Board further agreed by consensus that it could not establish specific criteria for what is acceptable remote supervision due to the number of variables from one facility to the next. The parameters for achieving acceptable direct supervision by the operator-in-charge would be determined by the permitting agencies, DEQ and VDH, as applicable, dependent upon the circumstances applicable to the specific waterworks or wastewater works.

Discussion of Direct Supervisors Relevant to Waterworks and Wastewater Works Operators

Mr. Dunkley discussed the remarks made during the public comment period and the written public comment submittals. The Board members discussed several issues that have been presented to the Board during public comment, including mandating a seal, the proposed journeyman license category, and the transfer of onsite soil evaluators to the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects. The Board members were provided with copies of various email communications that have recently been received by Board staff. Mr. Aulbach asked the Board members to

Other Board Business

take the packet of correspondence with them and carefully read and consider the communications before the next regulatory review Board meeting scheduled for May 28, 2015. Mr. Aulbach asked that staff ensure that there is time available on the next Board meeting agenda for discussion of these issues. Mr. DeBoer shared additional information about the regulatory review process and affirmed that the Board's current regulatory review is proceeding as appropriate in accordance with the Administrative Process Act. In addition, Mr. DeBoer advised that there are multiple opportunities during the regulatory review process for the proper submittal of public comments and that the Board must consider all comments received during those established public comment opportunities. Finally, Mr. DeBoer advised that the Code of Virginia provides for the regulation of onsite soil evaluators by this Board. Moving that authority elsewhere would require a legislative change and is outside the Board's scope of authority.

Ms. Henshaw advised the Board that National Testing Network (NTN), a new exam vendor has been procured. Ms. Clay is working closely with the vendor and examination staff to address any issues as they arise and assist candidates as needed.

New Exam Vendor

The following meeting dates have been scheduled:

- Thursday, May 28, 2015
- Thursday, July 23, 2015
- Thursday, October 15, 2015

Future Meeting Dates

The Board members were reminded to complete their conflict of interest forms and travel vouchers.

Conflict of Interest Forms and Travel Vouchers

There being no further business, the meeting was adjourned at 10:19 p.m.

Adjourn

John Aulbach, II, Chair

Jay W. DeBoer, Secretary