

**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 11, 2013, 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
Frank L. Davis, Jr.
Kornell Davis, Jr., Vice-Chair
Barry T. Dunkley
D. Perry Greene
Kristen Lentz
E. Brooke Philpy, Chair
Gary Schafran
Ronald R. Thomas (arrived at 9:04 a.m.)

Board members Michelle Ann Magrino and D. Wayne Staples were not present at the meeting.

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

Gordon Dixon, Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Michele Atkinson, Board Administrator
Kristin Clay, Legal Analyst
Betty C. Jones, Administrative Assistant

Mr. Philpy introduced and welcomed Steven Jack, Assistant Attorney General, from the Office of the Attorney General. Mr. Jack was in attendance as Board counsel as Elizabeth Peay was unable to attend.

Finding a quorum of the Board present, Mr. Philpy, Chair, called **Call to Order** the meeting to order at 8:59 a.m.

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

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

Mr. Dunkley moved that the Board approve the minutes of the following meetings:

Approval of Minutes

Board Meeting Minutes, January 10, 2013
Informal Fact-Finding Meeting Minutes, February 12, 2013
Education and Training Committee Minutes, March 22, 2013

Mr. Greene seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, and Schafran.

Mr. Philpy opened the floor for public comment. No members of the public present requested to speak.

Public Comment Period

Mr. Thomas arrived at 9:04 a.m.

Arrival of Board Member

As the complaint originated from an employee of the Virginia Department of Health, Mr. Aulbach disclosed that he had no prior knowledge of Mr. Crook's case and indicated he can be fair and impartial in consideration of this matter.

File Number 2013-00425, Douglas J. Crooks

Regarding **File Number 2013-00425, Douglas J. Crooks**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Crooks. Mr. Crooks was not present. Mr. Greene made a motion to reject the Consent Order and remand the matter to an Informal Fact-Finding Conference to develop the full record for review. Mr. Aulbach seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Greene, Lentz, Philpy, Schafran, and Thomas. As the reviewing Board member, Mr. Dunkley recused himself from the meeting and was not present during the discussion or vote.

Mr. Dunkley returned to the meeting at 9:15 a.m.

Return of Board Member

In the matter of **File Number 2013-01486, Cornell W. Hunter**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Hunter was present and addressed the Board. He indicated by obtaining his license he would be able to move forward with his career. Mr. K. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Hunter's application for a Class 4 wastewater works operator license. Mr.

File Number 2013-01486, Cornell W. Hunter

Dunkley seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, Schafran, and Thomas.

In the matter of **File Number 2013-01693, Carl E. Tarrance**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Tarrance was present and addressed the Board. He thanked the Board for the opportunity to speak and stated he is now a different person than he was at the time of the incidents under review. Mr. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Tarrance's application for a Class 4 waterworks operator license. Mr. K. Davis seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, Schafran, and Thomas.

File Number 2013-01693, Carl E. Tarrance

In the matter of **File Number 2013-01694, Matthew Behnke**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Behnke was not present. Mr. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Behnke's application for a Class 5 waterworks operator license. Mr. Greene seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, Schafran, and Thomas.

File Number 2013-01694, Matthew Behnke

Ms. Henshaw provided an update on the Onsite Sewage System Professionals Workgroup. The original meeting was scheduled for March 7, 2013 and was cancelled due to inclement weather. The meeting has been rescheduled for Thursday, April 25, 2013 at 9:30 a.m.

Update on Onsite Sewage System Professionals Workgroup

Ms. Henshaw received a request for the Board to consider Fauquier County's onsite sewage system requirements. The Board discussed Fauquier County's requirement that the soil evaluation portion for onsite sewage systems be performed by a Certified Professional Soil Scientist, as well as a subsequent letter sent on behalf of the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) regarding a professional engineer's authority to perform soil evaluations pursuant to § 54.1-400 of the *Code of Virginia*.

Discuss Fauquier County Onsite Sewage System Requirements

Ms. Henshaw prepared a draft letter to Fauquier County for the

Board to review which provided information regarding a licensed onsite soil evaluator's design authority.

Mr. Aulbach made a motion to send a letter to Fauquier County that addresses the Board's position regarding this matter. Mr. F. Davis seconded the motion which was approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, and Thomas. Mr. Schafran voted in opposition to the motion.

Ms. Henshaw gave an update on the current status of the regulatory review process for the Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations. The standard regulatory process action amending the definitions related to supervision and entry requirements for installers are currently undergoing review by the Secretary of Commerce and Trade.

**Update on
Regulatory Activity**

The proposed amendment to the Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations made pursuant to the Governor's Regulatory Reform Initiative are in the Notice of Intended Regulatory Action stage. The public comment period began March 11, 2013 and ended April 10, 2013.

Ms. Henshaw discussed House Bill 1482 which was approved during the 2013 General Assembly Session and by the Governor as amended. House Bill 1482 amends § 54.1-2301 of the Code of Virginia to allow any wastewater works operator to sit for the conventional onsite sewage system operator examination.

Legislative Update

The Board considered an exempt regulatory review action to implement House Bill 1482. After discussion, Mr. Dunkley made a motion to authorize staff to file an exempt action to amend the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations effective July 1, 2013, in order to confirm the Board's regulations to changes in statutory law as a result of the approval of House Bill 1482. Mr. Aulbach seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, Schafran, and Thomas.

**Consider Exempt
Regulatory Review
Action to
Implement HB
1482**

Mr. F. Davis made a motion to adopt language to permit any wastewater works operators to sit for the conventional onsite sewage system operator examination. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, Schafran, and Thomas.

Ms. Atkinson provided an updated Memorandum of the Wastewater Works Operators 2012 Continuing Professional Education (CPE) audit. As of April 10, 2013, 94% of the 118 regulants selected have responded. Of these regulants, 105 passed, seven did not respond, one requested and received extension, four regulants voluntarily surrendered their licenses, one licensee sent an e-mail stating that he plans to voluntarily surrender his license, and one provided incomplete documentation. Of the 12 certified letters mailed on March 15, 2013, five signed certified mail receipts have been received. Ms. Atkinson will provide an update on the CPE audit at the next Board meeting.

Update on CPE Audit

Ms. Henshaw provided a summary of the Education and Training Committee meeting which was held on March 22, 2013. The Education and Training Committee considered and approved three new training courses:

Report from Education and Training Committee

| Name of Training Course/Provider | Training Credits Approved |
|--|----------------------------------|
| “Stream Ecology” – Hampton Roads Sanitation District | 2.1 |
| “Activated Sludge Process Control, Part 1 (Observations & Testing)” – Virginia Department of Environmental Quality (DEQ) | 1.4 |
| “Activated Sludge Process Control, Part 3 (Microscopic Examination)” – Virginia Department of Environmental Quality | 1.4 |

The Board discussed the Education and Training Committee membership. The Board also discussed the vacancy on the Committee. Mr. F. Davis made a motion to add Mr. Dunkley and Mr. Greene as members. Ms. Lentz seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, Schafran, and Thomas.

Discuss Membership of Committee

After discussion, the Board considered the following 2014 Board meeting dates:

Set 2014 Meeting Dates

- January 16, 2014
- April 10, 2014
- July 24, 2014
- October 16, 2014

Mr. Dunkley made a motion to adopt the 2014 Board meeting

dates. Mr. Thomas seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Philpy, Schafran, and Thomas. The Board also agreed to have all Board meetings begin at 9:00 a.m.

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 9:48 a.m.

Adjournment

E. Brooke Philpy, Chair

Gordon Dixon, Secretary