

**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 July 23, 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:

Kornell Davis, Jr.
Barry T. Dunkley
John Ewing
Thomas Fore
D. Perry Greene, Chair
E. Brooke Philpy
D. Wayne Staples

Board members John Aulbach, II, Kristen Lentz, Michelle Magrino, and Gary Schafran were not present at the meeting.

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

Jay W. DeBoer, Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Jill Hrynciw, Board Administrator
Amy Goobic, Administrative Assistant

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

Finding a quorum of the Board present, Mr. Greene, Chair, 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. Fore moved to approve the agenda as amended. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

**Approval of
Agenda**

Mr. Staples moved that the Board approve the minutes of the May 28, 2015, Board meeting. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

**Approval of
Minutes**

There was no one present for public comment.

**Public Comment
Period**

In the matter of **File Number 2015-02737, William E. Green**, 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. Green was present to address the board. Mr. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Green's application for an Alternative Onsite Sewage System Installer license. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-027-37, William E. Green

In the matter of **File Number 2015-01932, Isaac Gyasi**, 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. Fore moved to accept the recommendation of the Presiding Officer and deny Mr. Gyasi's application for a Class 3 Waterworks Operator license. Mr. Philpy seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-01932, Isaac Gyasi

In the matter of **File Number 2015-02132, Jacques A. Riley**, 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. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Riley's application for a Class 3 Wastewater Works Operator license. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02132, Jacques A. Riley

In the matter of **File Number 2015-02133, Jacques A. Riley**, the Board members reviewed the record which consisted of the investigative file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Dunkley moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violation of the Board's regulations: 18VAC160-20-140.1 (Count 1). Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02133, Jacques A. Riley

Mr. Davis moved to accept the recommendation of the Presiding Officer as to the sanctions, imposing a \$250 monetary penalty for

the violation contained in Count 1. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

In the matter of **File Number 2015-02146, Leonard Spencer**, 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. Staples moved to accept the recommendation of the Presiding Officer and approve Mr. Spencer's application for a Class 4 Wastewater Works Operators license contingent upon completion of the Virginia Department of corrections (DOC) Wastewater Works Operator Class 4 Apprenticeship Program, meeting all requirements contained in the Board's regulations, and passing the applicable examination. Mr. Davis seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02146, Leonard Spencer

In the matter of **File Number 2015-02212, David J. Flohr**, 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. Flohr was present to address the Board. Mr. Fore moved to accept the recommendation of the Presiding Officer and approve Mr. Flohr's application for a Class 4 Waterworks Operator license. Mr. Davis seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02212, David J. Flohr

In the matter of **File Number 2015-02569, John C. Frame**, 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. Frame was present to address the Board. Mr. Fore moved to accept the recommendation of the Presiding Officer and approve Mr. Frame's application and allow him to sit for the Class 1 Wastewater Works Operator examination. Mr. Davis seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02569, John C. Frame

In the matter of **File Number 2015-02912, Robert J. Mitcheltree**, 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

File Number 2015-02912, Robert J. Mitcheltree

Recommendation. Mr. Mitcheltree was present to address the Board. Mr. Staples moved to accept the recommendation of the Presiding Officer and approve Mr. Mitcheltree's application for a Class 4 Wastewater Works Operator license. Mr. Fore seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

In the matter of **File Number 2015-02576, David T. Mathews**, 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. Dunkley moved to accept the recommendation of the Presiding Officer and enter into an Agreement for Licensure for a Class 6 Waterworks Operators license with the following terms:

File Number 2015-02576, David T. Mathews

- 1) Mr. Mathews' license shall be placed on probation for a period of three years;
- 2) While on probation, Mr. Mathews agrees to comply with all federal, state, and local laws, regulations, and rules pertaining to the operation of a waterworks facility;
- 3) While on probation, Mr. Mathews agrees to notify the Board in writing within 10 days of the issuance of any notice of violation or notice of any administrative or legal action issued by any federal, state, or local authority pertaining to the operation of a waterworks facility;
- 4) Mr. Mathews agrees that failure to comply with any provisions of probation shall be deemed a violation of 18 VAC 160-20-140.1.

Mr. Dunkley further moved that failure to respond within 14 days of receipt of the Agreement will result in denial of his application. In addition, failure comply with the terms of the Agreement shall result in the automatic suspension of the license until compliance is met. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy and Staples. The motion for approval as amended was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy and Staples.

In the matter of **File Number 2015-02211, Antoine Young Raines, Sr.**, 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. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Raines' application for Class 4 Wastewater Works Operator license contingent upon completion of the DOC Wastewater Works

File Number 2015-02211, Antoine Young Raines, Sr.

Operator Class 4 Apprenticeship Program, meeting all entry requirements contained in the Board's regulations, and passing the applicable examination. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

In the matter of **File Number 2015-02860, Joshua Gibbs**, the Board members reviewed the record which consisted of the investigative file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Gibbs was present to address the Board. Mr. Staples moved to accept the recommendation of the Presiding Officer and approve Mr. Gibbs' application for a Class 3 Wastewater Works Operator license. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02860 Joshua Gibbs

In the matter of **File Number 2015-02367, James C. Sumner**, 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. Sumner was present to address the Board. Mr. Fore moved to accept the recommendation of the Presiding Officer and approve Mr. Sumner's application for a Class 4 Wastewater Works Operator license. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02367, James C. Sumner

In the matter of **File Number 2015-02417, Roy Gregory Hicks, Jr.**, 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. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Hicks' application for Class 4 Wastewater Works Operator license contingent upon completion of the DOC Wastewater Works Operator Class 4 Apprenticeship Program, meeting all entry requirements contained in the Board's regulations, and passing the applicable examination. Mr. Davis seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02417, Roy Gregory Hicks, Jr.

In the matter of **File Number 2015-03344, Jack Jester**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Jester. Mr. Fore moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC160-20-140.4 (Count 1). For this violation, Mr. Jester agrees to the

File Number 2015-03344, Jack Jester

following sanctions: \$250 monetary penalty for the violation contained in Count 1; \$150.00 in Board costs; for a total of \$400. In addition, for violation of Count 1, Mr. Jester agrees to revocation of his license. The Board shall waive imposition of license revocation for Count 1 provided Mr. Jester completes at least sixteen (16) contact hours of continuing professional education (CPE) limited to the content areas covered by the Board's Class 4 Waterworks Operator examination and provide proof of attendance and successful completion within six (6) months of the effective date of the Order. If Mr. Jester fails to comply with these conditions, then license revocation will be automatically imposed. It is acknowledged that satisfactory completion of the aforementioned CPE will not count towards any continuing professional education requirements, if applicable, for renewal of license.

Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

In the matter of **File Number 2015-02988, Corey Allen Todd**, 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. Fore moved to accept the recommendation of the Presiding Officer and approve Mr. Todd's application for Class 4 Wastewater Works Operator license contingent upon completion of the DOC Wastewater Works Operator Class 4 Apprenticeship Program, meeting all entry requirements contained in the Board's regulations, and passing the applicable examination. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02988, Corey Allen Todd

In the matter of **File Number 2015-02989, James Allen Cowherd**, 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. Fore moved to accept the recommendation of the Presiding Officer and approve Mr. Cowherd's application for Class 4 Wastewater Works Operator license contingent upon completion of the DOC Wastewater Works Operator Class 4 Apprenticeship Program, meeting all entry requirements contained in the Board's regulations, and passing the applicable examination. Mr. Davis seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02989, James Allen Cowherd

In the matter of **File Number 2015-02990, Keith Lamont Sanders**, 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. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Sanders's application for Class 4 Wastewater Works Operator license contingent upon completion of the DOC Wastewater Works Operator Class 4 Apprenticeship Program, meeting all entry requirements contained in the Board's regulations, and passing the applicable examination. Mr. Fore seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02990, Keith Lamont Sanders

In the matter of **File Number 2015-02638, Ronshay Lamont Rice**, 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. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Rice's application for Class 4 Waterworks Operator license Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02638, Ronshay Lamont Rice

The Board recessed from 10:10 a.m. until 10:23 a.m.

Recess

Ms. Henshaw informed the Board that Mr. Riley arrived at the meeting after his application and disciplinary files were considered by the Board. Mr. Riley requested that the board reconsider the recommendation contained in the Summary of the Informal Fact-Finding Conference for File Number 2015-02133. Mr. Dunkley moved to reconsider. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy, and Staples.

File Number 2015-02133, Jacques A. Riley

Mr. Riley addressed the Board and asked that they reconsider the amount of the monetary penalty as it creates a significant financial hardship for him. Mr. Riley stated that he regretfully made a mistake with regards to the application process, which in turn caused a personal financial burden as he missed an opportunity for a raise.

Mr. Davis moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violation of the Board's regulations: 18VAC160-20-140.1 (Count 1). Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy and Staples.

Mr. Staples moved to reject the recommendation of the Presiding Officer and impose no monetary penalty for the violation contained in Count 1. Mr. Davis seconded the motion which was approved by: Davis, Ewing, Fore, Greene, Philpy, and Staples. Mr. Dunkley voted in opposition to the motion. The motion passed with a majority vote.

Ms. Henshaw provided an update on the current status of the Board's regulatory review processes.

**Update on
Regulatory Review
Processes**

The standard regulatory process action amending the definitions related to supervision and entry requirements for installers are in the final stage and executive branch review was completed June 30, 2015. The regulations were published in the *Registrar* along with commencement of a 30-day public comment period. The regulations will become effective Aug. 1, 2015.

Executive branch review of the proposed amendments, made pursuant to the Governor's Regulatory Reform Initiative was completed on April 27, 2015. Final regulations were submitted to the Registrar's office for publication in the Registrar on June 1, 2015, a final 30-day comment period was held, and the regulation will be effective August 1, 2015.

The fee adjustment is in the proposed stage and is currently awaiting conclusion of the 60 day public comment period that began on June 1, 2015 and ends on July 31, 2015. The comment period included a public hearing that was held June 11, 2015. The Board will review public comments received and adopt responses to the public comments at its next meeting the final text adopted by the board will then be submitted for executive branch Review, followed by a final 30-day public comment period before becoming effective.

The standard regulatory process action for general review of the regulations are currently in the proposal stage. The proposed regulations were submitted for executive branch review June 29, 2015. The regulations are reviewed by the Office of the Attorney General, Department of Planning and Budget, Secretary of Commerce and Trade, and the Governor's office during executive branch review. Once approved through the executive branch review process, the proposed regulations will be published and open for a 60 day public comment period, which will include a public hearing.

Ms. Henshaw informed the Board of several outreach opportunities that staff will be conducting and/or participating in, to answer questions and provide information. Ms. Clay was unable to attend the Board meeting as she is conducting a presentation for the Virginia Onsite Wastewater Recycling Association. Ms. Henshaw will be attending the Virginia Rural Water Association (VRWA) Expo in August, and she and Ms. Clay will be leading a licensing presentation at the Virginia Tech Short School, August 11. Ms. Henshaw will also be attending the Onsite Wastewater Mega-Conference, November 4-6, in Virginia Beach. The conference is through the combined efforts of the Virginia Onsite Wastewater Recycling Association (VOWRA), in partnership with the National Onsite Wastewater Recycling Association (NOWRA), the National Association of Wastewater Technicians (NAWT), and the State Onsite Regulators Alliance (SORA). She will be leading a presentation and staff may also have an information booth.

**Update on
Outreach
Opportunities**

Ms. Henshaw informed the Board that an article she submitted to the VRWA Streamline was published in their Summer 2015 edition.

Ms. Henshaw reminded the Board that it previously discussed the formation of an Exam Exploratory Committee to review national standardized examinations. Ms. Henshaw recommended Mr. Fore, Mr. Staples, Mr. Ewing, and Mr. Greene serve on the committee along with Mark Anderson from the Virginia Department of Health (VDH). Ms. Henshaw advised the Board to actively seek opportunities for outreach as it is a valuable tool in providing information about the Board's programs, as well as allows staff to meet directly with industry members to better understand issues, concerns, and questions they may have. Ms. Henshaw further stated that as long as resources are available and staff's schedule allows, staff typically attends all industry events to which staff is invited. Several trade and professional organizations have been essential in providing avenues for staff to conduct outreach over the last year. The committee may occasionally include consultants or subject matter experts in addition to the selected members. Mr. Davis moved to accept the recommendations. Mr. Philpy seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Philpy and Staples. Mr. Dunkley moved to have Mr. Fore serve as Chair of the Committee. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Greene, Philpy and Staples. Mr. Fore abstained.

**Formation of
Examination
Exploratory
Committee**

Ms. Henshaw provided the Board a copy of the quarterly examination statistics report for informational purposes.

**Quarterly Exam
Statistics**

Ms. Henshaw informed the Board that recommendations for submission to the 2016 General Assembly session are currently being reviewed; however there are no recommendations pertaining to the Board's programs at this time.

Other Business

Mr. Philpy inquired if there are 'filters' used to discern pertinent items added to legislation. Mr. DeBoer commented that ide agenda items were frequently hidden in budget legislation. Mr. Courtney stated that the agency's legislative director uses software and very broad search terms to uncover items pertaining to DPOR programs.

The following meeting dates have been scheduled:

- October 15, 2015
- January 14, 2016
- April 21, 2016
- July 28, 2016
- October 27, 2016

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 11:00 a.m.

Adjourn

D. Perry Greene, Chair

Jay W. DeBoer, Secretary