

**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 May 28, 2015, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members of the Board were present:

Kornell Davis, Jr.
Barry T. Dunkley
John Ewing
Thomas Fore
D. Perry Greene
Kristen Lentz
Michelle A. Magrino
E. Brooke Philpy
Gary Schafran
D. Wayne Staples

Board member John Aulbach, II, was 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
Kristin Marie Clay, Board Administrator
Amy Goobic, Administrative Assistant

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

Finding a quorum of the Board present, Ms. Magrino, Vice-Chair, **Call to Order** called the meeting to order at 9:04 a.m.

Ms. Henshaw informed the Board that Mr. Aulbach, Chair, was unable to attend the meeting and also that he would be stepping down as Board chair. Ms. Henshaw opened the floor for nominations for Board chair. Mr. Fore moved to nominate Mr. Greene. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Lentz, Magrino, Philpy, Schafran and Staples. By acclamation, Mr. Greene was elected Chair of the Board. Mr. Greene opened the floor for nominations for Board vice chair. Ms. Lentz moved to nominate Mr. Schafran. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, **Election of Officers**

Greene, Lentz, Magrino, Philpy, Schafran and Staples. By acclamation, Mr. Schafran was elected Vice-Chair of the Board.

Ms. Henshaw advised the Board of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Ms. Henshaw welcomed and introduced the newest Board member, John Ewing, who was appointed to serve as the alternative onsite sewage system installer representative.

**Welcome &
Introduction of
New Board
Member**

Mr. Davis moved to approve the agenda. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Lentz, Magrino, Philpy, Schafran and Staples.

**Approval of
Agenda**

Mr. Staples moved that the Board approve the minutes of the April 16, 2015, Board meeting as amended. Mr. Dunkley seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Lentz, Magrino, Philpy, Schafran and Staples.

**Approval of
Minutes**

Mr. Staples moved that the Board approve the minutes of the April 16, 2015, Education Committee meeting. Mr. Davis seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Lentz, Magrino, Philpy, Schafran and Staples.

Ms. Henshaw provided handouts for Board review with comments received via email regarding the draft regulations.

**Public Comment
Period**

Jeff Walker was present to address the Board. Mr. Walker stated that he did not have any comments, but that he was in attendance representing the Virginia Association of Professional Soil Scientist (VAPSS) and to answer any questions.

Ms. Henshaw informed the Board that this was their last meeting prior to the June 29th, 2015 date for filing the proposed regulations. She explained that if the Board does not adopt the regulations, another Notice of Intended Regulatory Action (NOIRA) would have to be filed, followed by another public comment period. This could extend the regulatory review process by several months.

**Review of
Regulatory Review
Timeline**

Board members were provided an outline of options for the discussion of professional seal provisions as requested by Mr. Aulbach. Mr. Courtney reviewed the Governor's Executive Order 17, which outlines the Governor's position on regulatory activity.

**Review of
Professional Seal
Provisions**

The Order requires, in part, that regulations not be overly burdensome for the regulants.

Discussion was held on whether to make no changes regarding a professional seal; draft language for an optional seal, and develop seal design requirements; or to draft language for a mandatory seal. Mr. Fore moved to adopt the option of an optional seal. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Lentz, Magrino, Philpy, Schafran and Staples.

Further discussion was held on how this change would affect the timing of the regulations. Ms. Henshaw stated that any change could add time to the progression of the regulations. She further added that the discussion on professional seals could be revisited later in the discussion of the regulations. Mr. Fore withdrew his motion. Mr. Staples withdrew his second of the motion.

Ms. Henshaw provided the Board with a revised draft of the Waterworks and Wastewater Works Operators Regulations. The sections included: **Review Draft Regulations**

- Definitions
- Entry requirements
- Renewal, reinstatement and CPE requirements
- Training course approval
- Standards of practice and conduct
- Waterworks and wastewater works classification

Ms. Henshaw provided the Board with a revised draft of the Onsite Sewage System Professionals Regulations. The sections included:

- Definitions
- Entry requirements (operators and installers)
- Renewal, reinstatement and CPE requirements
- Training course approval
- Standards of practice and conduct
- Waterworks and wastewater works classification

The Board began to review the draft Waterworks and Wastewater Works Operator regulations. The Board reviewed and discussed changes to the definitions drafted by staff and agreed by consensus to incorporate the changes. Ms. Henshaw informed the Board that changes to entry requirements language were for clarification purposes. Discussion was held on adding the word “alone” to the provisional licensure language – “provisional licensure alone shall not authorize an individual to serve as **Review Draft Regulations**

the operator of a classified waterworks or waste water works facility.” The Board agreed by consensus.

The Board recessed from 10:06 a.m. until 10:20 a.m.

Recess

The Board continued its review of the draft Waterworks and Wastewater Works Operator regulations. Ms. Henshaw provided a table with current and proposed education and experience requirements for comparison. Further discussion was held on proposed changes to renewal and reinstatement, CPE course topics, standards of practice and conduct and waterworks /waste water works classifications.

Review Draft Regulations

The Board began review of the draft Onsite Sewage System Professionals regulations. Ms. Henshaw informed the Board that many of the changes to definitions were similar to the waterworks and wastewater works definitions, and requested the Board approve by consensus the similar changes. The Board agreed.

Mr. Davis requested the Board proceed to the proposed changes to the Standards of Practice and Conduct and discussion of a professional seal, as he had to leave for an appointment. Further discussion was held regarding the need for professional seals, prohibitive acts with regards to the use of seals, and Executive Order 17. Mr. Dunkley moved to have no change to the regulations with regards to professional seals. Mr. Staples seconded the motion which was unanimously approved by: Davis, Dunkley, Ewing, Fore, Greene, Lentz, Magrino, Philpy, Schafran and Staples.

Discussion was held regarding a master license and journeyman license and the responsibilities of each. Ms. Henshaw stated that she would provide the Board with draft language regarding the master licensee’s professional responsibilities following the break for lunch.

The Board recessed for lunch from 11:37 a.m. to 12:22 p.m.

**Lunch and
Departure of Board
Members**

Mr. Davis and Mr. Dunkley departed the meeting during the break for lunch.

The Board continued its review of the draft Onsite Sewage System Professionals regulations. Ms. Henshaw provided draft language regarding the master licensee’s professional responsibilities.

Review Draft Regulations

Ms. Magrino departed the meeting at 12:41 p.m.

**Departure of Board
Member**

Ms. Henshaw stated that she will contact VDH regarding the proposed language, and that further changes could be made if necessary when the Board adopts final regulations. Further discussion was held on the need for a journeyman license. The Board was reminded that the journeyman and master licensure proposal was a result of several factors. First, during the 2014 General Assembly Session, bills were introduced to lessen the requirements for onsite sewage system installer and operator licensing because of the number of people who voiced tremendous concern that they were unable to meet the examination requirements and were going to have to dissolve their businesses. Second, there is a large number of onsite sewage system professionals that are working without a license under the auspices of working under another licensee. Currently, the Board has no jurisdiction over the unlicensed person and that individual does not have to meet any standards for minimum competency. The master/journeyman licensure proposal generally follows the established license scheme for water well operators and tradesmen, as well as others that meet a minimum requirement for entry into the profession before meeting a more stringent requirement to be the person responsible for the regulated services. Ms. Henshaw expressed that the Board did not need to continue with the master/journeyman license proposal. However, if it chose to eliminate the master/journeyman license classifications, it would need to revisit its entry requirements for all onsite sewage system professionals, and also revisit the issue of those working under a licensee who do not hold a license themselves, in contravention to Chapter 23 of Title 54.1 of the Code of Virginia. After consideration, the Board agreed by consensus that the master and journeyman license proposal is a viable option to address these issues and continued with its review of the regulations.

**Review Draft
Regulations**

Ms. Henshaw requested that staff be permitted to make changes necessary to ensure consistency with similar provisions in the Waterworks and Wastewater Works Operator Regulations. The Board agreed by consensus. After extensive review of the regulations, Mr. Staples moved to adopt the Waterworks and Wastewater Works Operator Regulations as proposed as well as the Onsite Sewage System Professional Regulations as proposed. Mr. Staples further moved to authorize staff, in conjunction with the Chair, to make any changes necessary to proceed through the executive review process. Ms. Lentz seconded the motion which was unanimously approved by: Ewing, Fore, Greene, Lentz, Philpy, Schafran and Staples.

Ms. Henshaw informed the Board that an Exam Exploratory Committee with representative from all professions needed to be

**Other
Business**

established at the July 23 Board meeting.

The following meeting dates have been scheduled:

- July 23, 2015
- October 15, 2015

**2015 Meeting Dates
and Consideration
of 2016 Meeting
Dates**

Ms. Lentz moved to adopt the following 2016 meeting dates:

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

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

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 1:38 p.m.

Adjourn

D. Perry Greene, Chair

Jay W. DeBoer, Secretary