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 21, 2016, 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:

John Aulbach, II
James N. Brockwell
Rosa-Lee Cooke
W. Jordan Evans
John Ewing
Thomas Wayne Fore
D. Perry Greene, Chair
Kristen Lentz
Pamela M. Pruett
D. Wayne Staples
Richard C. Wadkins

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

Jay W. DeBoer, Director
Nick Christner, Deputy Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Kristin M. Clay, Board Administrator
Tanya M. Pettus, Administrative Assistant

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

Mr. Greene, Chair, called the meeting to order at 9:00 a.m. **Call to Order**

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

Mr. Fore moved to approve the agenda as presented. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins. **Approval of Agenda**

Mr. Fore moved that the Board approve the minutes of the January 14, 2016, Board meeting, and the minutes of the March 8, 2016, **Approval of Minutes**

Examination Exploratory Committee meeting. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Introduction of New Board Members

Ms. Henshaw introduced newly-appointed Board member W. Jordan Evans who will serve as a citizen member on the Board. Ms. Henshaw also introduced Richard C. Wadkins who will serve as the wastewater works owner representative.

Election of Vice-Chair

Ms. Henshaw advised the Board that due to new Board member appointments, an election for a new Vice-Chair was needed. Mr. Greene opened the floor for nominations of Board Vice-Chair. Mr. Aulbach made a motion to nominate Mr. Fore. Ms. Lentz seconded the motion which was approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Greene, Lentz, Pruett, Staples, and Wadkins. Mr. Fore accepted the nomination. By acclimation, Mr. Fore was named Board Vice-Chair.

Public Comment Period

There were no members of the public present for comment.

Recusal of Board Member

Mr. Fore recused himself and exited the meeting while case file number 2015-02664 was being considered by the Board.

File Number 2015-02664, Randall Turman

In the matter of **File Number 2015-02664, Randall Turman**, the Board members reviewed the Consent Order, which imposed a monetary penalty of $150.00 and Board costs in the amount of $150.00. In addition Mr. Turman is to complete a course pertaining to utility management, with the $150.00 monetary penalty to be waived if evidence of such course completion is provided within 90 days of the effective date of the Consent Order. Mr. Staples moved to accept the terms of the Consent Order as presented. Mr. Wadkins seconded the motion which was approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Greene, Lentz, Pruett, Staples, and Wadkins.

Return of Board Member

Mr. Fore returned to the meeting.

File Number 2016-01424, Marcus C. Black

In the matter of **File Number 2016-01424, Marcus C. Black**, 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. Black's application for a Class 4 Wastewater Works Operator license contingent upon completion of the Department of Corrections (DOC) Wastewater

Works Operator Class 4 Apprenticeship Program, meeting all entry requirements contained in the Board's regulations, and passing the applicable examination. Ms. Lentz seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Update on Regulatory Review Processes

Ms. Henshaw advised the Board of the status of the Board's regulatory actions that are in process. Proposed amendments to the regulations made pursuant to the Board's general review were published in the Virginia Register on December 14, 2015. The public comment period on the proposed amendments ended on February 12, 2016. In addition, a public hearing was held on January 28, 2016 to hear public comments on the proposed changes.

After discussion, the Board agreed by consensus to continue with other Board business and move the General Review agenda item to the end of the meeting.

Examination Statistics Report

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

Discussion of Exploratory Examination Committee Recommendations

Ms. Henshaw provided the Board with a report from the Exploratory Examination Committee meetings held on November 13, 2015, and March 8, 2016. She advised the Board that the Committee had finalized recommendations to be considered by the Board. Ms. Henshaw advised the Board that the Committee recommended to the Board consideration of a closed book exam to align Virginia with other states in the region, and proceed with implementing a national exam in order to increase reciprocity and standardization of requirements. The Committee also recommended that the Board continue using the state-specific exam for onsite installers, operators, and soil evaluators, as there do not appear to be viable national exam options for these licenses. After discussion, Mr. Fore moved to accept the recommendations of the Exploratory Examination Committee. Ms. Lentz seconded the motion. After further discussion, the motion was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

2015 Waterworks Operator CPE Audit Report

Ms. Clay provided an update on waterworks operator continuing professional education (CPE) audits. The audits were conducted on a random group of individuals making up 5% of the regulant population.

Discussion of CPE Audits for Onsite

Ms. Clay discussed implementing audits for onsite sewage system professionals to ensure compliance with CPE requirements. Ms.

Sewage System Professionals

Clay and Ms. Henshaw explained that due to the number of interim licensees, and newness of licensing for onsite sewage system professionals, CPE audits have not been conducted to date. Board staff recommended commencing with random CPE auditing of onsite sewage system professionals in September 2016 because all interim licenses have now ended, and many licensees have gone through, or are nearing their first renewal cycle. Ms. Clay further recommended that the percentage audited for each license type be a random selection of 5% of licensees and such audits be conducted annually. Mr. Fore moved to approve the recommendation. Discussion was held on the selection of licensees to be audited. Ms. Clay explained the filtering process and timeframes used to determine those selected for audit by the Board. After discussion, Mr. Fore amended his motion, and moved to approve the recommendation to commence CPE audits for onsite sewage system professionals from those that renewed during the immediately prior one-year period. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Consideration of Resolutions for Service

Board members considered the following resolution for former Board member Barry T. Dunkley:

Barry T. Dunkley

WHEREAS, Barry Dunkley, did faithfully and diligently serve as a member of the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals from 2011 to 2016;

WHEREAS, Barry Dunkley, did devote generously of his time, talent and leadership to the Board;

WHEREAS, Barry Dunkley, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals wishes 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 Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals this twenty-first day of April 2016, that Barry

Dunkley be given all honors and respect due him 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 moved to adopt the resolution as presented. Mr. Brockwell seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Discussion on Design Flow Limit (WWW)

Ms. Clay advised the Board of recent discussions and inquiries surrounding dual licensure required to operate alternative onsite sewage systems that fall within the range of 10,000 and 40,000 gallons per day by design. Current regulations state an appropriate wastewater works operator license is required as well as an alternative onsite sewage system operator license. Ms. Clay asked the Board to consider the class of wastewater works operator license necessary to meet regulatory requirements. After discussion, Mr. Fore moved to recommend a Class 4 wastewater works operator license requirement. Mr. Aulbach seconded the motion. After discussion, Mr. Fore amended his motion and moved that the Board require a Class 4 wastewater works operator license in addition to an alternative onsite sewage system operator license to operate alternative onsite sewage systems that fall within the range of 10,000 and 40,000 gallons per day by design. Ms. Pruett seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins. Ms. Henshaw advised the Board that a guidance document regarding the dual licensure will be drafted by staff.

Recess

The Board recessed from 10:15 a.m. to 10:31 a.m.

Update on Outreach Opportunities

Ms. Henshaw updated the Board on recent and upcoming outreach opportunities.

Board members discussed various outreach events. Mr. Aulbach also noted that Board staff has been attending the Waterworks Advisory Committee meetings of the Virginia Department of Health.

2016 Legislative Update

Ms. Henshaw provided the Board with an update of passed legislation affecting the Board and/or waterworks, wastewater works, and onsite sewage system professionals.

Other Board Business

Ms. Henshaw asked the Board to consider CPE credit hours for subject matter experts participating in the Board's exam reviews. The following Board members abstained from the discussion: Ewing, Fore, Greene, Pruett, and Staples. After discussion, Ms. Lentz moved to allow subject matter experts to receive CPE credit on an hour by hour basis for participation in exam reviews. Ms. Cooke seconded the motion which was approved by: Aulbach, Brockwell, Cooke, Evans, Lentz, and Wadkins. Board members Ewing, Fore, Greene, Pruett, and Staples abstained from voting.

Ms. Henshaw reminded the Board of the information regarding the challenges of re-entry into the workforce for participants of the Department of Corrections (DOC) Wastewater Works Operator Class 4 Apprenticeship Program provided by Mr. Robbie Jones of the DOC when he addressed the Board in January 2016, particularly the issue of participants obtaining a driver's license. Mr. Courtney advised the Board and staff that representatives of the Department of Motor Vehicles (DMV) will now go to corrections facilities to assist participants in the program with obtaining driver's licenses.

Closed Meeting

At 10:43 a.m., Ms. Pruett moved that the Board meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel pertaining to legal matters within the jurisdiction of the Board as permitted by § 2.2-3711.A.7 of the *Code of Virginia*. The following non-members were in attendance to reasonably aid the consideration of the topic: Elizabeth Peay, Trisha Henshaw, Kristin M. Clay, Jay DeBoer, Nick Christner, and Mark Courtney. The motion to convene in closed meeting was with respect to the matter identified as agenda item IX.b General Review. Mr. Fore seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Open Meeting

At 11:15 a.m., Ms. Lentz moved that the Board adjourn the closed meeting and immediately reconvene in open session. Mr. Wadkins seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia

Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals.

VOTE

AYES: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins

NAYS: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: None.

The Board recessed for lunch from 11:20 a.m. to 11:47 a.m.

Recess

Ms. Henshaw provided information on the current status of the Board's regulatory process. Ms. Henshaw advised that a general review was conducted on the Board's regulations. A public comment period was held, including a public hearing, and 105 comments were received on the proposed Waterworks and Wastewater Works Regulations (18VAC160-30) and Onsite Sewage System Professionals Regulations (18VAC160-40). Ms. Henshaw presented the public comments received during the public comment period and the draft responses to the public comments as developed by staff. The Board agreed by consensus to begin by reviewing each of the comments and draft response, and then proceed to final review of the proposed regulations.

General Review: Consider Public Comments Received and Adopt Board Responses

The Board recessed from 1:05 p.m. to 1:17 p.m.

Recess

General Review: Adopt Final Regulations

Ms. Henshaw provided the Board with the draft proposed regulations for Waterworks and Wastewater Works Regulations (18VAC160-30) and Onsite Sewage System Professionals Regulations (18VAC160-40).

After a discussion on each of the regulations in which public comments were considered, Mr. Staples moved to adopt the summary of public comments and draft Board responses as amended. Mr. Wadkins seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Mr. Brockwell moved to adopt the Waterworks and Wastewater Works Regulations as amended and authorize staff to submit them for final executive branch review. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Mr. Fore moved to adopt the Onsite Sewage System Professionals Regulations as amended and authorize staff to submit them for final executive branch review. Ms. Pruett seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Evans, Ewing, Fore, Greene, Lentz, Pruett, Staples, and Wadkins.

Future Meeting Dates

The following meeting dates have been scheduled:

- July 28, 2016
- October 27, 2016

Conflict of Interest Forms and Travel Vouchers

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

Adjourn

There being no further business, the meeting was adjourned at 3:28 p.m.

Douglas Perry Greene

D. Perry Greene, Chair

Jay W. DeBoer

Jay W. DeBoer, Secretary

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: John Aulbach, II

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:
NONE

Nature of Personal Interest Affected by Transaction:
NONE / N-A

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:
PROFESSIONAL ENGINEER - VDH employee
- DIRECTOR ODW - NO Impact by [illegible]

☒ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☒ I **do not** have a personal interest in any transactions taken at this meeting.

Signature

4/21/16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: James N. Brockwell

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

_____

_____

Nature of Personal Interest Affected by Transaction:

_____

_____

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

_____

☐ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☑ I **do not** have a personal interest in any transactions taken at this meeting.

Signature

4-21-16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Rosa-Lee Cooke

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

_____

_____

Nature of Personal Interest Affected by Transaction:

_____

_____

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

_____

☑ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☐ I **do not** have a personal interest in any transactions taken at this meeting.

Rosa-lee Cooke
Signature

4/21/16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: W. Jordan Evans

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

☑ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☑ I **do not** have a personal interest in any transactions taken at this meeting.

Jordan Evans
Signature

4/22/16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: John Ewing

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:
VOWRA

☑ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☐ I **do not** have a personal interest in any transactions taken at this meeting.

Signature

4/21/2016
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Thomas Wayne Fore

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

Abstained from discussion on Continuing Professional Education

Nature of Personal Interest Affected by Transaction:

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

☑ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☐ I **do not** have a personal interest in any transactions taken at this meeting.

Signature

4-21-16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Douglas Perry Greene

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

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Nature of Personal Interest Affected by Transaction:

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I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

_____

☐ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☑ I **do not** have a personal interest in any transactions taken at this meeting.

Douglas P Greene
Signature

4/21/16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Kristen Lentz

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

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Nature of Personal Interest Affected by Transaction:

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_____

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

_____

☐ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☑ I **do not** have a personal interest in any transactions taken at this meeting.

Kristen M Lentz
Signature

4/21/16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Pamela M. Pruett

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

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_____

Nature of Personal Interest Affected by Transaction:

_____

_____

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

_____

☒ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☒ I **do not** have a personal interest in any transactions taken at this meeting.

Signature

04-21-16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Donald Wayne Staples

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

_____

_____

Nature of Personal Interest Affected by Transaction:

_____

_____

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

_____

☐ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☑ I **do not** have a personal interest in any transactions taken at this meeting.

Donald Wayne Staples
Signature

4/21/16
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Richard C. Wadkins

2. Title: Board Member

3. Agency: WWWOOSSP Board

4. Meeting/IFF Date: Board Meeting April 21, 2016

5. I have a personal interest in the following transaction:

_____

_____

Nature of Personal Interest Affected by Transaction:

_____

_____

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

_____

☐ I am able to participate in this transaction fairly, objectively, and in the public interest.

or

☐ I did not participate in the transaction.

6. ☒ I **do not** have a personal interest in any transactions taken at this meeting.

Richard C Wadkins
Signature

4/21/16
Date