

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

The Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals met on September 27, 2011, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Frank L. Davis, Jr.
Kornell Davis, Jr.
D. Perry Greene
Dr. Wesley Kleene
Kristen Lentz
E. Brooke Philpy
Gary Schafran
Ronald Thomas
Michelle Ann Magrino
D. Wayne Staples

Board member Harold W. Walker was not present for the meeting.

Staff present for all or part of the meeting:

Gordon Dixon, Director
Mark N. Courtney, Deputy Director of Licensing and Regulation
David Dick, Executive Director
Jill Hrynciw, Board Administrator
Michele Atkinson, Board Administrator
Earlyne Perkins, Legal Analyst
Emily Trent, Administrative Assistant
Eric Olson, Executive Director, Board for Contractors

Others present for all or part of the meeting:

Louis Wayne Braxton (Respondent)
Allen Knapp (Virginia Department of Health)
Dan Richardson (Virginia Department of Health)

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

Mr. Philpy, finding a quorum of the Board present, called the meeting to order at 9:04 a.m.

Call to Order

Mr. F. Davis moved to approve the agenda. Mr. Staples seconded the motion which was unanimously approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples

**Approval of
Agenda**

and Thomas.

Mr. Staples moved to approve the minutes for the following meetings:

- Board Meeting Minutes – June 21, 2011;
- Informal Fact-Finding Conference – July 12, 2011;
- Informal Fact-Finding Conference – July 14, 2011; and
- Informal Fact-Finding Conference – August 9, 2011.

Mr. Greene seconded the motion which was unanimously approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

There were no comments made to the Board.

Mr. Dick introduced Michelle Ann Magrino, new WWSSOOP Board member.

In the matter of **File Number 2011-04699, Louis Wayne Braxton, 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. Braxton was present but did not address the Board. Mr. K. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Braxton's Class 3 Waterworks Operator license application. Mr. Staples seconded the motion which was approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

In the matter of **File Number 2011-04847, William Edmund Gollaher**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation, and a letter from Phillip Farley, Mr. Gollaher's employer. Mr. Gollaher was not present. Mr. Schafran moved to reject the Presiding Officer's recommendation, and instead deny Mr. Gollaher's application for a Wastewater Worker Operator Class 4 license based upon the number, severity and recent nature of Mr. Gollaher's convictions, and the criteria contained in Sections 54.1-204 B 1, 54.1-204 B 2, 54.1-204 B 3, 54.1-204 B 5 and 54.1-204 B 7. Ms. Lentz seconded the motion which was approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran,

Approval of Minutes

Public Comment Period

Introduction of New Board Member

File Number 2011-04699, Louis Wayne Braxton, Jr.

File Number 2011-04847, William Edmund Gollaher

Staples and Thomas.

In the matter of **File Number 2011-05015, Timothy Glenn Lewis**, 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, and a letter from Phillip Farley, Mr. Lewis' employer. Mr. Lewis was not present. Mr. F. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Lewis' Class 4 Waterworks Operator license application. Mr. Staples seconded the motion which was approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

File Number 2011-05015, Timothy Glenn Lewis

In the matter of **File Number 2011-04440, Jerry William Baker**, 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. Baker was not present. Ms. Lentz moved to accept the recommendation of the Presiding Officer and approve Mr. Baker's Class 4 Wastewater Works Operator license application. Mr. Schafran seconded the motion which was approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

File Number 2011-04440, Jerry William Baker

In the matter of **File Number 2012-00067, Patrick Robert Sparkman**, 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. Sparkman was not present. Mr. Schafran moved to accept the recommendation of the Presiding Officer and approve Mr. Sparkman's Interim Alternative Onsite Sewage System Operator license application. Mr. Thomas seconded the motion which was approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

File Number 2012-00067, Patrick Robert Sparkman

Dr. Kleene recused himself from the meeting.

Recusal of Board Member

Mr. Allen Knapp and Mr. Dan Richardson of the Virginia Department of Health (VDH) addressed the Board concerning the adverse impact on VDH of the following interpretation made by the Board during its June 21, 2011 meeting: "The Board agreed, without dissent, that a licensed conventional or alternative onsite soil evaluator, as appropriate, shall be present and shall provide direct supervision to unlicensed individuals engaged in activities

Onsite Soil Evaluator Duties

requiring an evaluator license.”

Mr. Knapp and Mr. Richardson stated the VDH employees licensed as onsite soil evaluators by the Board relied on unlicensed VDH employees to do field work. The unlicensed employees have completed the VDH onsite soil evaluator training but do not yet have sufficient experience to qualify for a license from the Board. The licensed employees supervise the activities of the unlicensed employees and assign only field work that the unlicensed employee is competent to perform. The licensed employee is responsible for the compliance with all pertinent regulations by the unlicensed employee. The Board’s interpretation that the licensed employee be present and directly supervise all work performed by the unlicensed employee has added to VDH travel costs and will require additional staff to be hired and trained.

Mr. Knapp suggested that an interpretation requiring an employer-employee relationship or a contract between the licensed onsite soil evaluator and the unlicensed individual performing the onsite soil evaluator tasks at the licensed onsite soil evaluator’s discretion would address public health and safety concerns. The licensed onsite soil evaluator would be responsible for full compliance with the Board’s regulations.

Mr. K. Davis moved that if a licensed onsite soil evaluator has a direct employer-employee relationship or a written contract with an unlicensed individual, the unlicensed individual may perform soil evaluation tasks without the licensed onsite soil evaluator being present. The licensed onsite soil evaluator will be responsible for the unlicensed individual’s compliance with all applicable laws and regulations. F. Davis seconded the motion, which was approved by members: F. Davis, K. Davis, Greene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

The Board suggests that both the licensed onsite soil evaluator and the unlicensed individual, who performed the onsite soil evaluator tasks, sign the certification statements.

Dr. Kleene returned to the meeting.

Mr. Dick and Eric Olson, Executive Director, Board of Contractors addressed the Board concerning the request for distinction between Wastewater Works and Onsite Sewage Systems during construction. Mr. K. Davis moved to accept staff’s recommendation that an alternative onsite sewage system installer is required for non-discharging onsite sewage systems permitted by VDH, regardless of

Return of Board Member

Onsite Sewage System Installer License Requirement for Large Treatment Works

the size of the onsite sewage system. The licensed alternative onsite sewage system installer must also be a licensed contractor or work for a licensed contractor who has the SDS specialty on his contractor's license. Depending on the construction and installation plans of the non-discharging onsite sewage systems (e.g., the plan includes a pumping station), the licensed contractor may be required by the Virginia Board for Contractors to have the H/H classification in addition to the SDS specialty. Mr. Staples seconded the motion, which was approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

Mr. Dick updated the Board on pending regulatory activity for the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals.

**Update on
Pending
Regulatory
Activity**

Mr. Dick updated the Board on continuing professional education audits.

**Update on
Continuing
Professional
Education Audit**

Mr. Dick briefed the Board on the Periodic and Small Business Impact Review of Regulations required by Executive Order 14 (2010). The comment received by staff on its regulations and its Public Participation Guideline regulation will be an item on the next agenda. *The Board will review the comment and decide if its regulations need to be terminated, amended, or retained.*

**Periodic and
Small Business
Impact Review of
Regulations**

The following resolution was presented to the Board:

**Resolution for
Former Board
Member John
Vanderland**

**RESOLUTION TO
John Vanderland**

WHEREAS, **John Vanderland** did faithfully and diligently serve as a member of the Virginia Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals from 2007 to 2011;

WHEREAS, **John Vanderland** did devote generously of his time, talent and leadership to the Board;

WHEREAS, **John Vanderland** did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Waterworks & Wastewater Works Operators & 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 & Wastewater Works Operators & Onsite Sewage System Professionals this twenty-seventh day of September 2011, that **John Vanderland** 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. F. David moved to adopt the resolution as presented. Mr. Staples seconded the motion which was approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

Dr. Kleene moved to cancel the December 13, 2011. Mr. Thomas seconded the motion which was unanimously approved by members: F. Davis, K. Davis, Greene, Kleene, Lentz, Magrino, Philpy, Schafran, Staples and Thomas.

Future Board Meeting Dates

The Board will meet on:

January 11, 2012
April 4, 2012
July 10, 2012
October 3, 2012

The Board members completed Conflict of Interests Act training.

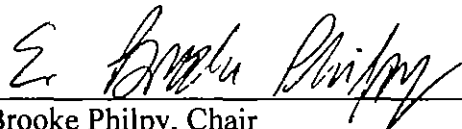
COIA Training

The Board members completed their conflict of interest forms and travel vouchers.

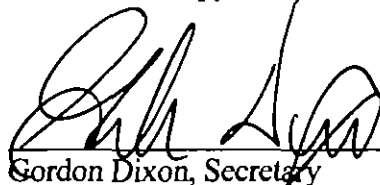
Conflict of Interest Forms

The Board adjourned at 12:17 p.m.

Adjournment



E. Brooke Philpy, Chair



Gordon Dixon, Secretary

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Gary Schafran
2. Title: Board Member
3. Agency: WWWOOSSP Board
4. Meeting/IFF Date: Board Meeting September 27, 2011

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

Nature of Personal Interest Affected by Transaction:

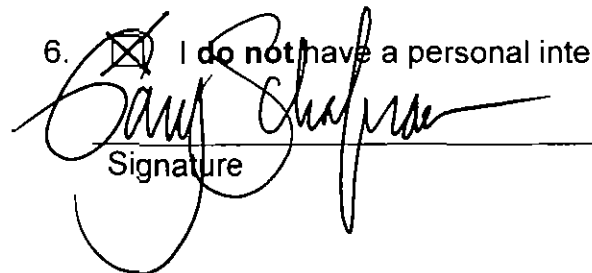
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

9/27/11
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

- 1. Name: Frank L. Davis, Jr.
- 2. Title: Board Member
- 3. Agency: WWWOSSP Board
- 4. Meeting/IFF Date: Board Meeting September 27, 2011

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.

Frank L. Davis, Jr.
Signature

9-27-2011
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

- 1. Name: Kornell R. Davis, Jr.
- 2. Title: Board Member
- 3. Agency: WWWOOSSP Board
- 4. Meeting/IFF Date: Board Meeting September 27, 2011

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

9-27-11
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

- 1. Name: Douglas Greene
- 2. Title: Board Member
- 3. Agency: WWWOOSSP Board
- 4. Meeting/IFF Date: Board Meeting September 27, 2011

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.

Douglas R. Greene
Signature

9/27/11
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: J. Wesley Kleene
2. Title: Board Member
3. Agency: WWWOOSSP Board
4. Meeting/IFF Date: Board Meeting September 27, 2011

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:

VDH

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.

J Wesley Kleene
Signature

9/27/11
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 September 27, 2011

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.

Kristen Lentz
Signature

9/27/11
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Emmett Brooke Philpy
2. Title: Board Member
3. Agency: WWWOOSSP Board
4. Meeting/IFF Date: Board Meeting September 27, 2011

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:

VA Assoc. of Professional Soil Scientists (VAPSS); VA Onsite Wastewater Recycling Assoc. (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.

E. Brooke Philpy

Signature

9/27/11

Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Ronald R. Thomas
2. Title: Board Member
3. Agency: WWWOSSP Board
4. Meeting/IFF Date: Board Meeting September 27, 2011

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

Nature of Personal Interest Affected by Transaction:

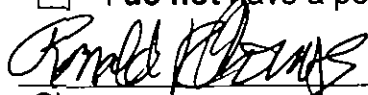
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

- 1. Name: Michelle Ann Magrino
- 2. Title: Board Member
- 3. Agency: WWWOOSSP Board
- 4. Meeting/IFF Date: Board Meeting September 27, 2011

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.

Michelle Magrino
Signature

9-27-2011
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 September 27, 2011

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

September 27, 2011
Date