

**Onsite Sewage System Professionals Workgroup
of the Board for
Waterworks and Wastewater Works Operators and Onsite Sewage System
Professionals**

MINUTES OF MEETING

The Onsite Sewage System Professionals Workgroup of the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals met on April 25, 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 Committee were present:

E. Brooke Philpy, Board Chair, Workgroup Chair, Alternative Onsite Soil Evaluator
John Aulbach, II, Board Member, Virginia Department of Health Designee
Kornell Davis, Jr., Board Member, Alternative Onsite Sewage System Operator
Ronald Thomas, Board Member, Alternative Onsite Sewage System Installer
Wiley V. Johnson, III, Professional Engineer Member of the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects
James Bowles, Virginia Department of Health
Allen Knapp, Virginia Department of Health (arrived at 10:18 a.m.)
Dwayne Roadcap, Virginia Department of Health
Wayne Gentry, Industry Representative, Alternative Onsite Sewage System Installer, Alternative Onsite Sewage System Operator
Mike Lynn, Industry Representative, Alternative Onsite Sewage System Installer, Alternative Onsite Sewage System Operator, Alternative Onsite Soil Evaluator
Bob Marshall, Industry Representative, Alternative Onsite Sewage System Operator, Alternative Onsite Soil Evaluator
Robert Mayer, Manufacturer Representative
Curtis Moore, Industry Representative, Alternative Onsite Soil Evaluator
Lynn Graves, Consumer Representative (arrived at 9:37 a.m.)

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

Gordon Dixon, Director
Nick Christner, Deputy Director for Licensing, Investigations and Compliance
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Kate Nobsch, Executive Director
Michele Atkinson, Board Administrator
Jill Hrynciw, Board Administrator
Betty C. Jones, Administrative Assistant

No representative from the Office of the Attorney General was present.

Mr. Philpy, Chair, called the meeting to order at 9:31 a.m. Mr. **Call to Order/**
Philpy welcomed and thanked everyone for being in attendance and **Introductions**
introduced the Workgroup members and staff. Ms Henshaw

introduced Ms. Nobsch, Executive Director, who observed the meeting.

Mr. Philpy opened the floor for public comment. Mr. Jim Slusser addressed the Committee during the Public Comment Period. He thanked the Board for their time and expressed concerns about licensing matters, particularly full disclosure of the types of services offered to consumers by the Virginia Department of Health (VDH).

**Public Comment
Period**

Mr. Graves arrived at 9:37 a.m.

**Arrival of
Committee
Member**

Ms. Henshaw provided a discussion of objectives, goals and expectations to the Committee. The Onsite Sewage System Professionals (OSSP) Workgroup was formed by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP Board). The WWWOSSP Board has charged the OSSP Workgroup with identifying issues and concerns that have been raised by onsite sewage system professionals regarding specific requirements affecting their practice, and recommending possible solutions to address such issues and concerns. The WWWOSSP Board will be provided with a report from the OSSP Workgroup, to include the issues identified and recommended solutions. The WWWOSSP Board has sole authority to determine what, if any, identified issues and recommendations it chooses to address. The WWWOSSP Board at its sole discretion may choose to pursue alternative solutions to any identified issues.

**Discussion of
Objectives, Goals,
Expectations**

Chair Philpy introduced Mr. Graves to the Committee.

**Introduction of
Committee
Member**

Ms. Henshaw provided a handout of the Ground Rules for the OSSP Workgroup.

**Discussion of
Objectives, Goals,
Expectations**

Mr. Roadcap, with VDH, provided an overview of the history of the onsite sewage system professionals. He discussed the Virginia onsite sewage program before 1999, and from 1999 to 2008; prior backlog problems, solutions put into place, and the unintended consequences; Authorized Onsite Soil Evaluators Regulations from 2002 through 2009; history of events from 2003 through 2006;

**Onsite Sewage
System
Professionals – A
Look Back**

important legislation from 2007 through 2011 (in 2007 House Bill 3134 moved onsite soil evaluators to DPOR); the study of House Bill 2185; recent consideration of relying more on the private sector for primary services to allow VDH to focus on core functions that protect public health and groundwater supplies; and new and emerging responsibilities.

Ms. Henshaw provided an overview of agencies, stakeholders, and applicable laws and regulations related to the onsite sewage system industry. She also discussed policies and the responsibilities of DPOR. Ms. Henshaw summarized the general roles and responsibilities of VDH and DPOR. In addition, she provided information regarding the differences between regulations and statutes; identified various statutes, regulations, and policies under each agency and how each can be amended; and explained Executive Order 14 pertaining to regulatory review and the Governor's launch of a Regulatory Reform Initiative to reduce unnecessary and burdensome regulations.

Mr. Knapp arrived at 10:18 a.m. and introduced himself to the Committee.

Ms. Henshaw provided an opportunity for the members of the Workgroup to share their concerns, identify the core issues, and look at possible solutions whether statutory or regulatory. The Committee has no authority to act; however, the WWWOSSP Board has authority to pursue actions if it is appropriate and within its authority.

The Workgroup members discussed inconsistencies between private sector and VDH requirements. Many of the complaints filed involve such inconsistencies and the WWWOSSP Board cannot proceed with complaints if the allegations involve VDH regulations and not WWWOSSP Board regulations.

The members also discussed concerns regarding the inherent conflict of interest that arises with VDH as the regulator and regulant.

One member suggested that all design work should be made private. He expressed concern that VDH staff is criticized when reviewing permits; however, he indicated that only a professional engineer can identify a problem or concern with the project. The member also indicated that the privatization of work is not a guarantee of good work.

**Overview of
Agencies,
Stakeholders, and
Laws/Regulations**

**Arrival of
Committee
Member**

**Share Perspectives
and Identify Issues**

The Workgroup members discussed the upcoming repeal of the Authorized Onsite Soil Evaluator Regulations. Further discussion focused on the standards of practice contained in the Authorized Onsite Soil Evaluator Regulations. The members agreed that a regulation similar to 12 VAC 5-615-460.B regarding the obligation of a licensee to report knowledge of a violation of another licensee should be recommended for addition to the WWWOSSP Board regulations.

The Workgroup members discussed material changes to permits, and the ramifications of making a material change to a permit without the alternative onsite soil evaluator's approval.

The Workgroup members generally discussed a complaint that was filed by a VDH staff person who disagreed with the soil evaluation performed by another licensee.

The authority of VDH to issue a notice of violation was discussed, along with the issuance of such citation to the owner and not the regulant.

A Workgroup member discussed the need for Standards of Practice for licensees, and whether such Standards should be under the purview of DPOR or VDH.

The Workgroup members discussed substituted systems, changes to plans that are not approved by the designing alternative onsite soil evaluator, and the ability of owners to sign their own permits.

The Workgroup members discussed the increased obligation of the alternative onsite soil evaluator to stay involved throughout the process.

The Workgroup members discussed alternatives to address concerns about changes being made to the design prepared by the alternative onsite soil evaluator. One suggestion was to emulate 12 VAC 5-615-460 D and F and 12 VAC 5-610-240 in the WWWOSSP Board regulations. In addition, the Workgroup discussed "black box" designs which are prepared by alternative onsite soil evaluator licensed VDH staff members.

After this discussion, Mr. Knapp expressed concern regarding the appropriateness of this discussion as VDH has formed a Chamber and Bundled Expanded Polystyrene Technical Advisory Committee to develop emergency regulations pursuant to HB 1726.

The Committee recessed for lunch from 11:57 a.m. to 12:30 p.m.

Lunch

Mr. Knapp informed the Committee that he and others met with Delegate Watson on April 24th and discussed the conflict with VDH providing direct services. He told Delegate Watson that the Health Department agrees and plans to move forward with a stakeholder process to ensure public health is protected and identify the areas on which VDH should focus as its core responsibilities. Mr. Knapp extended an invitation to potential groups interested in serving as stakeholders to look at VDH's current processes and how to deliberatively and effectively remove VDH from delivering direct design services.

**Continue Sharing
Perspective and
Identifying Issues
and Review
Applicable
Laws, Regulations,
and Stakeholders
Related to
Discussed Issues**

A Workgroup member discussed the certification statement regarding onsite soil evaluator exemption from professional engineer licensing that is currently contained on permits. The member indicated that in addition to signing the certification statement, the WWWOSSP Board should amend its regulations to require an alternative onsite soil evaluator to seal his work. The member stated that this would provide visibility to profession. In addition, such requirements should include provisions for submitting sealed permits electronically.

The Workgroup members discussed the meaning of "packaged equipment" as used in § 54.1-402.A.11 of the Code of Virginia. The Workgroup members suggested that any system that requires any type of modification to the package means the device is no longer packaged equipment. This may include additional calculations, equipment changes, and the end recipient of the effluent. The baseline of the equipment is determined by the manufacturer.

Mr. Courtney suggested that DPOR staff consider the information gathered and bring recommendations to the next WWWOSSP Board meeting on July 9, 2013. He also suggests if anyone is interested in the VDH process to go to the Town Hall website to obtain more information regarding current regulatory actions.

**Summary of
Discussions**

Staff advised the Workgroup members that the WWWOSSP Board will be provided an update of the discussion from the day's meeting. If the WWWOSSP Board directs, an additional

**Schedule Follow-up
Meeting**


Workgroup meeting will be scheduled.

Ms. Henshaw announced that this will be Ms. Atkinson's last meeting as she has taken on a new job and new opportunities.

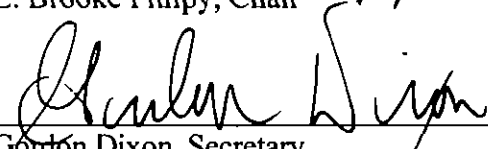
The Board members were reminded to complete their conflict of interest forms and travel vouchers.

**Conflict of Interest
Forms and Travel
Vouchers**

There being no further business, the meeting was adjourned at 1:36 p.m. **Adjourn**



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: John Aulbach, II
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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

N/A

Nature of Personal Interest Affected by Transaction:

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:

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 4/25/13

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

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

1. Name: James Bowles
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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:

VIRGINIA DEPARTMENT OF HEALTH

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.

James M. Bowles
Signature

4/25/2013
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: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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

Nature of Personal Interest Affected by Transaction:

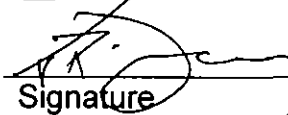
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

4-25-13
Date

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

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

1. Name: Wayne Gentry
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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:

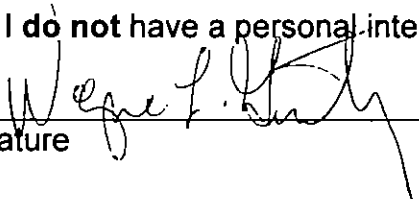
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

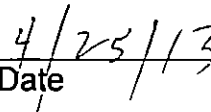
I did not participate in the transaction.

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: Lynn Graves
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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

Nature of Personal Interest Affected by Transaction:

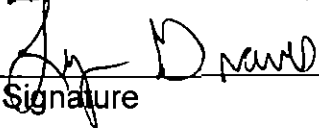
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

4/25/13
Date

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

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

1. Name: Wiley V. Johnson, III
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting
April 25, 2013

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:

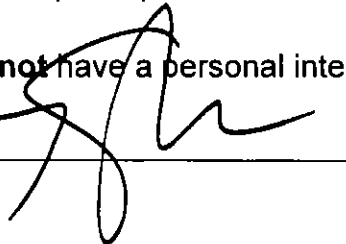
I am able to participate in this transaction fairly, objectively, and in the public interest.

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

4/25/13

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

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

1. Name: Allen Knapp
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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.

Allen L Knapp
Signature

4/25/13
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Mike Lynn
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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

None

Nature of Personal Interest Affected by Transaction:

None

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

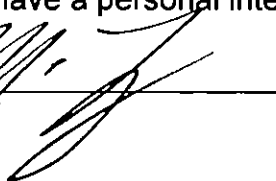
I am able to participate in this transaction fairly, objectively, and in the public interest.

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

4-25-13

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

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

1. Name: Bob Marshall
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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.

Robert Marshall
Signature

4/25/2013
Date

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

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

1. Name: Robert Mayer
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting
April 25, 2013

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

Robert Mayer

Date

4-25-13

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Curtis Moore
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013
5. I have a personal interest in the following transaction:

Yes

Nature of Personal Interest Affected by Transaction:

I own a business that is engaged in AOSE designs and operation & maintenance of onsite systems.

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

M+M Soil Consultants, Inc.; Ecoseptix Alliance, LLC; VOWRA Soil Scientists, AOSE

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.

Curtis Moore
Signature

4/25/13
Date

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

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

1. Name: E. Brooke Philpy
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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:

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

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

4/25/13
Date

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

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

1. Name: Dwayne Roadcap
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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

Nature of Personal Interest Affected by Transaction:

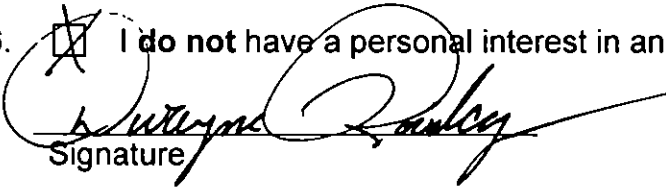
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

4/25/13
Date

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

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

1. Name: Ronald Thomas
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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.

Ronald Thomas
Signature

4/25/13
Date

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

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

1. Name: Dwayne Roadcap
2. Title: Board Member
3. Agency: Board for Waterworks & Wastewater Works Operators & Onsite Sewage System Professionals
4. Meeting/IFF Date: Onsite Sewage System Professionals Committee Meeting April 25, 2013

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

4/25/13
Date