

**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 January 29, 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:

John Aulbach, II, Chair
Kornell Davis, Jr., Chair
Barry T. Dunkley
Thomas Fore
D. Perry Greene
Michelle Ann Magrino, Vice Chair
E. Brooke Philpy
D. Wayne Staples

Board members Kristen Lentz, Gary Schafran and Ronald Thomas were not present at the meeting.

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

Jay W. DeBoer, 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
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, Mr. Aulbach, Chair, called **Call to Order** the meeting to order at 9:00 a.m.

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

Ms. Henshaw informed the Board that Eddie Walker, applicant in agenda item #3, called and will be late. Ms. Henshaw requested the review of his file be postponed until he arrives. **Approval of Agenda**

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

Mr. Fore moved to have File Number 2015-00536, Eddie Walker, moved to the end of the file review. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

Mr. Dunkley moved that the Board approve the minutes of the November 18, 2014, Board meeting. Mr. Davis seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

Approval of Minutes

There was no one present for public comment.

Public Comment Period

Ms. Henshaw provided Board members an email from Mr. Jeff Walker, LPSS, AOSE, for public comment. Ms. Henshaw explained that Mr. Walker's comments were not received until after the close of the public comment period for the General Review 2014 Notice of Intended Regulatory Action (NOIRA), but she advised Mr. Walker that they would be provided to the Board at its next meeting during the public comment period. Mr. Walker offered suggestions to several regulations, most specifically the need to define the term "design" and use of a seal for Alternative Onsite Soil Evaluators.

Ms. Henshaw introduced Lee Bryant, new licensing specialist for the WWWOSSP Board, and Amy Goobic, Administrative Assistant, filling in for Betty Jones.

In the matter of **File Number 2015-00755, Christopher Ward**, 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. Ward, and his wife, Shelly Ward, were present to address the Board. Mr. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Ward's application for Class 4 Wastewater Works Operator license. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2015-00755, Christopher Ward

In the matter of **File Number 2014-03402, Clyde Johnson, Jr.**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Johnson. Mr. Staples moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC160-20-140.1 (Count 1). For this violation,

File Number 2014-03402, Clyde Johnson, Jr.

Mr. Johnson agrees to the voluntary surrender of his Class 3 Waterworks Operator license, and to pay \$150.00 in Board costs. Mr. Fore seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Philpy, Staples, and Thomas.

In the matter of **File Number 2014-03582, Thomas Huffman, 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. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Huffman's application for Class 4 Wastewater Works Operator license contingent upon completion of the Virginia 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. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2014-03582, Thomas Huffman, Sr.

In the matter of **File Number 2015-00018, Marcus Roberson**, 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. Roberson's application for Class 5 Wastewater Works Operator license. Mr. Davis seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2015-00018, Marcus Roberson

In the matter of **File Number 2014-00019, Carl Nelson, 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. Nelson was present for the meeting. Mr. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Nelson's application for Conventional Onsite Sewage System Operator license. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2014-00019, Carl Nelson, Sr.

Mr. Philpy stepped out of the meeting.

Departure of Board Member

Ms. Henshaw informed the Board that Mr. Woolard, was applying for two licenses and the files could be reviewed together.

File Number 2015-00510 and File Number 2015-00511, Jeffrey Woolard

In the matter of **File Number 2015-00510 and File Number 2015-00511, Jeffrey Woolard**, the Board members reviewed the records which consisted of the application files, transcripts, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summaries and Recommendations. Mr. Fore moved to accept the recommendation of the Presiding Officer in the matter of File Number 2015-00510 and approve Mr. Woolard's application for a Class 1 Wastewater Works Operator license. Mr. Fore further moved to accept the recommendation of the Presiding Officer in the matter of File Number 2015-00511 and approve Mr. Woolard's application for a Class 2 Wastewater Works Operator license. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino and Staples.

In the matter of **File Number 2015-00520, Arthur Elliott**, 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. Elliott'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: Aulbach, Davis, Dunkley, Fore, Greene, Magrino and Staples.

File Number 2015-00520, Arthur Elliott

Mr. Philpy returned to the meeting.

Return of Board Member

In the matter of **File Number 2015-00572, Michael Taylor**, 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. Taylor was present to address the Board. Mr. Staples moved to accept the recommendation of the Presiding Officer and approve Mr. Taylor's application for Class 4 Wastewater Works Operator license. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2015-00572, Michael Taylor

In the matter of **File Number 2015-01080, Gordon Bennett**, 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. Greene moved to accept the recommendation of the Presiding Officer and approve Mr. Elliott's application for Class 4 Wastewater Works Operator license contingent upon completion of the DOC Wastewater Works Operator Class 4 Apprenticeship Program, and pursuant to a four year Agreement for

File Number 2015-01080, J. Gordon Bennett

Licensure containing the following terms:

- During the term of this Agreement for Licensure, Bennett shall not violate any term of his probation or parole and agrees to immediately report (within 48 hours) any violation to the Board;
- During the term of this Agreement for Licensure, Bennett shall immediately report (within 48 hours) to the Board the results of any positive drug or alcohol screen as administered by his probation officer and or employer;
- During the term of this Agreement for Licensure, Bennett shall authorize his probation officer to provide the Board, every six months, with a letter regarding Bennett's adjustment to and compliance with his probation;
- During the term of this Agreement for Licensure, Bennett shall authorize his probation officer to immediately report to the Board any violation of his probation;
- Bennett agrees that the Board can modify the terms of this Agreement for Licensure once the terms of his probation are established or at the request of his probation officer
- Bennett further agrees that any violation of the terms of this Agreement for Licensure shall be deemed a violation of 18 VAC 160-20-140; and meeting all entry requirements contained in the Board's regulations, and passing the applicable examination.

Mr. Fore moved that Mr. Bennett must execute and return the Agreement to the Board within 60 days of receipt of the Agreement or a Final Order denying the application would be entered. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

In the matter of **File Number 2015-00756, Faheem Abdul-Wahhaab**, 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. Ms. Clay stated there was a correction needed in the IFF Summary; the summary incorrectly states Class 4 Waterworks Operator, instead of Class 4 Waste

File Number 2015-00756, Faheem Abdul-Wahhaab

Waterworks Operator. Mr. Greene moved to accept the recommendation of the Presiding Officer and approve Mr. Abdul-Wahhaab's application for Class 4 Wastewater Works Operator license. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

In the matter of **File Number 2015-00764, Robert Whitlow**, 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. Whitlow's application for an Onsite Sewage System Installer license. Mr. Greene seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2015-00764, Robert Whitlow

In the matter of **File Number 2015-00547, James E. Allen III**, 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. Allen was present for the meeting. Mr. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Allen's application for an Alternative Onsite Sewage System Installer license. Mr. Greene seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2015-00547, James E. Allen III

In the matter of **File Number 2015-01151, James E. Allen III**, 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. Allen was present for the meeting. Mr. Staples 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: 18VAC160-20-140.6 (Count 1). Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2015-01151, James E. Allen III

Mr. Fore moved to accept the recommendation of the Presiding Officer as to the sanctions, with no sanction imposed for the violation. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples. Discussion was held regarding the recommended monetary penalty in order to be consistent with past Board action. Mr. Fore withdrew his motion to

impose no sanction. Mr. Aulbach moved to impose a \$50 monetary penalty. Mr. Staples seconded the motion. Board members Aulbach, Fore, Greene, Magrino, Philpy and Staples approved the motion. Board members Davis and Dunkley opposed the motion. The motion passed with a majority vote.

In the matter of **File Number 2015-01273, Cordell Payne, 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. Fore moved to accept the recommendation of the Presiding Officer and approve Mr. Payne'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: Aulbach, Davis, Dunkley, Fore, Greene, Magrino and Staples.

File Number 2015-01273, Cordell Payne, Sr.

In the matter of **File Number 2015-01274, Miguel Strother**, 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. Strother'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. Staples seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino and Staples

File Number 2015-01274, Miguel Strother

In the matter of **File Number 2015-01548, Ardonis Barnes**, 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. Barnes was present to address the Board. Mr. Greene moved to accept the recommendation of the Presiding Officer and approve Mr. Barnes' application for Class 3 Wastewater Works Operator license. Mr. Fore seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

File Number 2015-01548, Ardonis Barnes

In the matter of **File Number 2015-00536, Eddie Walker**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-

File Number 2015-00536, Eddie Walker

Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Walker was present to address the Board. Mr. Davis moved to accept the recommendation of the Presiding Officer and approve Mr. Walker's application for Class 3 Wastewater Works Operator license. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

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

**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 currently undergoing review by the Governor's office.

The proposed amendments, made pursuant to the Governor's Regulatory Reform Initiative, are in the final stage and currently undergoing review by the Governor's office.

The fee adjustment is currently undergoing review by the Governor's office.

The standard regulatory process action for general review of the regulations is currently in the Notice of Intended Regulatory Action (NOIRA) stage and completed Executive Branch review December 1, 2014. The public comment period ended December 31, 2014.

Board members reviewed public comments received during the NOIRA comment period which ended December 31, 2014 and the draft responses prepared by staff. Mr. Staples moved to approve the draft responses. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Davis, Dunkley, Fore, Greene, Magrino, Philpy and Staples.

**WWWOOSP
Regulations Update
- Review Summary
of Public
Comments**

Board members reviewed the Memorandum on Reference Material prepared by Mr. Courtney. Mr. Courtney provided background information on the issue of handwritten notes contained in reference materials brought into exam sessions. Mr. Courtney stated that it is a security issue, and exam security is crucial. Discussion was held on what type of notes may be deemed appropriate, and suggestions were made to resolve potential problems including prohibiting any handwritten notes. Ms. Henshaw suggested the Board work towards the implementation of not allowing handwritten notes in examination sites, adding that there should be a delayed enactment. Mr. Fore recommended delaying enactment for two years, as it would take that amount of

**Memorandum on
Reference Material**

time to educate and prepare applicants. Mr. Courtney suggested February 1, 2017, in order to allow time to educate the public. The Board agreed by consensus.

Ms. Clay provided a report of the Waste Waterworks Operators 2014 continuing professional education (CPE) audit. As of October 7, 2014, the regulant population for waste waterworks operators totaled 2,280. Of the 114 regulants (five percent of the regulant population) were randomly selected. Individuals licensed less than two years were manually excluded. On November 24, 2014, staff sent initial letters and CPE audit form were mailed to individuals selected for audit. The due date of CPE audit forms and required documentation was January 12, 2015. As of January 5, 2015, the responses received were: 74 received, 65 passed, 9 were incomplete. Regulants who did not provide complete audit forms received notice requesting additional information and/or clarification. A follow up letter will be sent January 30, to all regulants that failed to respond.

**2014 CPE Audit for
Waste Waterworks
Operators**

Discussion was held on the classification of waterworks and wastewater works facilities and the processing of applications. Ms. Clay explained that when reviewing experience forms for applications, the classification on the Department of Environmental Quality (DEQ) or Virginia Department of Health (VDH) permit may not match the classification that the applicant has included on their experience verification form. Ms. Clay provided Board members with a sample permit from the DEQ for a wastewater facility that showed a requirement for a higher class of operator than was typically required for the class of facility. Records indicate the facility is a class XXX. Ms. Henshaw indicated that the regulations may need to be reviewed to clarify. Mr. Staples stated that he would discuss the issue with his colleagues at DEQ. Ms. Henshaw stated that the issue will be discussed at the March 12 Regulatory Review Committee meeting.

**Application
Processing/Facility
Classification**

Ms. Henshaw reported that PSI is no longer administering exams on behalf of the Board as of January 1, and exam administration will be through Ergometrics/National Testing Networks. Board members were provided information regarding exam sites and new candidate information bulletins. Ms. Henshaw further reported that Ergometrics utilized subject matter experts to review the exams. Additionally, applicants must submit a passport compliant photo, and finger printing will be instituted as security measures.

**Update on
WWWOSSP
Examination**

Ms. Clay stated that she continuing to work with the exam vendor through the transition. She added that the first exams are being hand graded and therefore results will take longer. Mr. Fore stated

that he has heard positive comments thus far.

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

Quarterly Exam Statistics

The meeting date for the Regulatory Review Committee has been set for March 12, 2015.

New Meeting Date

Ms. Henshaw provided an update on the Onsite Sewage System Professionals Application Workshop. Ms. Henshaw reported that the first workshop was held January 23 in Harrisonburg, with 15-20 attending. She commented that staff from VDH were also there, and that she has received positive feedback.

Update on OSSP Application Workshop

Ms. Henshaw reported that the Board for Contractors would have a booth at the Virginia Water Well Association Conference. WWWOSSP Board licensing specialist, Ashley Colwell, will also attend to answer questions, as there are many issues that pertain to both boards.

Other Business

Ms. Henshaw stated that she attended the Annual Conference of the Association of Boards of Certification (ABC) and discussion was held on issues pertaining to reciprocity, as well as the ABC national exam. Mr. Fore suggested forming a committee to review the ABC information to present to the Board to possibly assist with reciprocity and to consider the standardized national exam. Ms. Henshaw stated that this will be added to the agenda for the April 2015 meeting for discussion.

Mr. Aulbach stated that he has been impressed with the DOC apprenticeship program for the wastewater works operators, and inquired as to the possibility of a similar program for the waterworks operators.

Mr. Fore inquired about the pending legislation regarding the felony conviction check box on employment applications. Ms. Henshaw responded that the Board's regulations and the Department's general statute contain provisions relating to the review of past felony convictions on applications.

The following meeting dates have been scheduled:

- Thursday, April 16, 2015
- Thursday, July 23, 2015
- Thursday, October 15, 2015

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 **Adjourn**
12:03 p.m.

John Aulbach II, Chair

Jay W. DeBoer, Secretary

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