

**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 July 23, 2020, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Richmond, Virginia 23233.

The following members of the Board were present:

James N. Brockwell
Erica Duncan
W. Jordan Evans
John Ewing
Thomas Wayne Fore, Vice-Chair
Pamela M. Pruett, Chair
Dwayne Roadcap
D. Wayne Staples
Caleb Taylor

Board members Rosa-Lee Cooke and Don Riggelman were not present at the meeting.

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

Mary Broz-Vaughan, Director
Trisha L. Henshaw, Executive Director
Shannon Webster, Director of Examinations
Tanya M. Pettus, Administrative Assistant

Joshua Laws from the Office of the Attorney General was present at the meeting.

Ms. Pruett, Chair, finding a quorum of the Board present, called the meeting to order at 9:32 a.m. **Call to Order**

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

Ms. Henshaw advised the Board of safety measures currently in place due to COVID-19. **COVID-19 Safety Reminders**

Ms. Henshaw introduced staff member Brenda Hundley, who was present to assist in implementing safety protocols.

John Ewing arrived at 9:33 a.m. **Arrival of Board Member**

Mr. Fore moved to approve the agenda as presented. Mr. Staples seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

**Approval of
Agenda**

Mr. Fore moved to approve the minutes of the January 9, 2020, Education and Training Committee meeting as presented. Mr. Staples seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

**Approval of
Minutes**

Mr. Fore moved to approve the minutes of the January 9, 2020, Board meeting as presented. Mr. Taylor seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

The Board members reviewed a comment submitted in writing by Dennis R. Wanless regarding education opportunities for licensees in light of the current public health emergency. Mr. Wanless explained the changes he has made to his course offerings and asked that the Board consider allowing correspondence courses for continuing professional education (CPE) credit.

**Public Comment
Period**

The Board agreed by consensus that correspondence courses that cover topics found in the regulations qualify for CPE credits.

Mr. Ewing, Ms. Pruett, and Mr. Roadcap recused themselves for discussion and deliberations on File Number 2019-0277. Mr. Fore, Vice-Chair, assumed Chair of the Board.

**Recusal of Board
Members**

In the matter of **File Number 2019-0277, Larry Woodford Madison, Jr.**, the Board members reviewed the record which consisted of the Report of Findings, transcript and exhibits from the Informal Fact-Finding Conference (IFF), and the Presiding Officer's Summary and Recommendation.

**File Number 2019-
0277, Larry
Woodford Madison,
Jr.**

The Board reviewed a written comment from Dr. Marcia Degen of the Virginia Department of Health (VDH), who participated in the IFF. Dr. Degen explained the VDH interpretation of §54.1-402A.11 (ii) b of the Code of Virginia, and briefly explained the differences in design between pump systems and gravity systems. Dr. Degen expressed concern that the Presiding Officer's interpretation of the Code applied pump standards to a gravity system.

Mr. Madison was present to address the Board. Mr. Madison advised the Board of communications he had with members of VDH staff

regarding the design in question. Mr. Madison explained his design and use of pads in onsite sewage systems, and advised the Board of design options suggested to him by VDH staff. Mr. Madison expressed concern that there is no clear guidance from VDH concerning certain designs and the potential for unauthorized practice of engineering, and stated that he is currently working with an engineer to avoid confusion.

After lengthy discussion, Mr. Brockwell moved to accept the Presiding Officer's recommendation, and find Mr. Madison in violation of Board Regulation 18 VAC 160-40-470. Mr. Fore seconded the motion which was approved by: Brockwell and Fore. The following members voted in opposition to the motion: Evans, Staples, and Taylor. Ms. Duncan abstained with the explanation that her knowledge of the underlying regulations pertaining to this matter is limited. The motion failed. Mr. Evans then moved to accept the summary of the presiding officer, and reject the recommendation and adopt a finding of no violation. Mr. Staples seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Fore, Staples, and Taylor.

Mr. Ewing, Ms. Pruett, and Mr. Roadcap returned to the meeting. Ms. Pruett resumed Chair of the Board.

Return of Board Members

Mr. Fore recused himself from the meeting for discussion and deliberations on File Numbers 2019-02165, 2019-02159, and 2020-00169.

Recusal of Board Member

In the matter of **File Number 2019-02165, Alice Marie Davis**, the Board members reviewed the record which consisted of the Notice of Prima Facie Case, Report of Findings, evidence, and the Presiding Officer's Summary and Recommendation. Mr. Evans moved to accept the recommendation of the Presiding Officer and find Alice Marie Davis in violation of Board regulation 18VAC 160-30-320.1. Mr. Taylor seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Pruett, Roadcap, Staples, and Taylor. Mr. Staples then moved to accept the recommendation as to the sanction and revoke Alice Marie Davis' Class 2 Wastewater Works Operator license. Mr. Evans seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Pruett, Roadcap, Staples, and Taylor.

File Number 2019-02165, Alice Marie Davis

In the matter of **File Number 2019-02159, Randolph Paul Peters**, Board members reviewed the record which consisted of the Notice of Prima Facie Case, Report of Findings, evidence, and the Presiding Officer's Summary and Recommendation. Mr. Brockwell moved to accept the recommendation of the Presiding Officer and find

File Number 2019-02159, Randolph Paul Peters

Randolph Paul Peters in violation of Board regulation 18VAC 160-30-320.3. Mr. Staples seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Pruett, Roadcap, Staples, and Taylor. Mr. Staples then moved to accept the recommendation as to the sanction and impose a monetary penalty of \$500.00, and revoke Randolph Paul Peters' Class 2 Wastewater Works Operator license. Mr. Evans seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Pruett, Roadcap, Staples, and Taylor.

In the matter of **File Number 2020-00169, Randolph Paul Peters**, Board members reviewed the record which consisted of the Notice of Prima Facie Case, Report of Findings, evidence, and the Presiding Officer's Summary and Recommendation. Mr. Evans moved to accept the recommendation of the Presiding Officer and find Randolph Paul Peters in violation of Board regulation 18VAC 160-30-320.3. Mr. Brockwell seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Pruett, Roadcap, Staples, and Taylor. Mr. Staples then moved to accept the recommendation as to the sanction and impose a monetary penalty of \$500.00, and revoke Randolph Paul Peters' Class 4 Waterworks Operator license. Mr. Evans seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Pruett, Roadcap, Staples, and Taylor.

File Number 2020-00169, Randolph Paul Peters

Mr. Fore returned to the meeting.

Return of Board Member

In the matter of **File Number 2020-01819, Steven Matthew Marshall**, 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. Marshall's application for a Master Conventional Onsite Sewage System Operator license. Mr. Staples seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

File Number 2020-01819, Steven Matthew Marshall

In the matter of **File Number 2020-01946, Jeffrey Dallas Spickard**, 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. Spickard's application for a Class 2 Wastewater Works Operator license. Mr. Evans seconded

File Number 2020-01946, Jeffrey Dallas Spickard

the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

In the matter of **File Number 2020-01186, Darrell Wesley Kinard**, 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. Duncan moved to accept the recommendation of the Presiding Officer and approve Mr. Kinard's application for a Class 4 Wastewater Works Operator license. Mr. Fore seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

File Number 2020-01186, Darrell Wesley Kinard

In the matter of **File Number 2020-01296, Devin Charles Howell**, 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. Evans moved to accept the recommendation of the Presiding Officer and approve Mr. Howell's application for a 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. Fore seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

File Number 2020-01296, Devin Charles Howell

In the matter of **File Number 2020-01507, Derrick Lamont Bright**, 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. Duncan moved to accept the recommendation of the Presiding Officer and approve Mr. Bright's application for a Class 2 Wastewater Works Operator license. Mr. Evans seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

File Number 2020-01507, Derrick Lamont Bright

In the matter of **File Number 2020-02088, Gordon Lee James, II**, 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. James' application for a 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

File Number 2020-02088, Gordon Lee James, II

seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

In the matter of **File Number 2020-02153, Cecil Mandell Dixon**, 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.

File Number 2020-02153, Cecil Mandell Dixon

Ms. Henshaw advised the Board that should it accept the Recommendation, the Presiding Officer's Summary and Recommendation would need to be amended to reflect Mr. Dixon's application for a Wastewater Works Operator's license.

Mr. Fore moved to accept the recommendation as amended of the Presiding Officer and approve Mr. Dixon's application for a 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: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

In the matter of **File Number 2020-02214, Rocky Jon 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.

File Number 2020-02214, Rocky Jon Taylor

Mr. Taylor was present to address the Board and thanked the Board for their time. Mr. Taylor stated he was there to answer any questions the Board may have of him.

Ms. Henshaw advised the Board that should it accept the Recommendation, the Presiding Officer's Summary and Recommendation would need to be amended to reflect Mr. Taylor's application for a Wastewater Works Operator's license.

Mr. Fore moved to accept the recommendation as amended of the Presiding Officer and approve Mr. Taylor's application for a Class 3 Wastewater Works Operator license. Ms. Duncan seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

In the matter of **File Number 2020-02270, Craig Morgan Callan**, 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.

File Number 2020-02270, Craig Morgan Callan

Ms. Henshaw advised the Board that should it accept the Recommendation, the Presiding Officer's Summary and Recommendation would need to be amended to reflect Mr. Callan's application for a Wastewater Works Operator's license.

Mr. Fore moved to accept the recommendation as amended of the Presiding Officer and approve Mr. Callan's application for a Class 4 Wastewater Works Operator license. Mr. Evans seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

Ms. Pettus provided an update on the 2020 wastewater works operator CPE audit. The audit began on June 16, 2020, based on a random selection of 5% of current licensees.

WWWO 2020 CPE Audit Report

Ms. Henshaw provided the Board with waterworks and wastewater works examination statistics from January 1, 2017 through July 3, 2020, as well as a comparison of exam scores from before and after an additional hour was allotted to the time limit in September 2019. Ms. Henshaw also provided a comparison of scores between first time and repeat exam takers.

Examination Statistics Report

Ms. Henshaw also provided onsite examination statistics from January 1, 2017 to July 3, 2020 for informational purposes.

Ms. Henshaw provided the Board with statistics from post-exam surveys that were added to waterworks and wastewater works exams. Ms. Webster advised the Board that she is working with PSI to get the survey data reported in a more cohesive and automated way.

Ms. Henshaw advised that a subject matter expert (SME) review of the onsite examination revisions to the 2017 ABC exam that was tentatively scheduled for April 2020 was cancelled due to COVID-19. Staff is hoping to reschedule the SME review in the fall.

Ms. Henshaw advised the Board of temporary waivers of certain regulations pursuant to Executive Order 51 in response to COVID-19. During the current state of emergency, the validity of licenses, certifications, registrations, and other authorizations issued by the Board that would otherwise (i) expire during the state of emergency

DPOR Updates as it Relates to COVID-19 Response

and (ii) be eligible for renewal or reinstatement during the state of emergency under applicable regulations, will be extended until the 30th day after the date by which the state of emergency is lifted. In addition, regulations that prohibit or limit online, electronic, or distance learning have also been waived until the 30th day after the date by which the state of emergency is lifted. Ms. Henshaw noted that the waivers do not apply to statutory requirements.

Ms. Henshaw advised the Board that in order to comply with public health emergency recommendations, the agency remains closed to the public and staff scheduling adjustments have been made, including telework for those employees who are eligible.

Ms. Webster advised the Board that though PSI testing sites have re-opened, they are currently operating at 50% capacity. Ms. Webster stated that staff has received complaints regarding the ability to contact PSI for exam scheduling. Ms. Webster advised that PSI is working to alleviate availability and staffing issues within its call center.

Board regulations 18VAC160-30-190.D and 18VAC160-40-330.D currently allow for a course instructor to get real-time CPE hours for the amount of time spent teaching each CPE course, as well as two CPE hours for the initial development or substantial updating of a CPE course. This two hours may apply to each CPE course an instructor develops/updates within a license cycle. As a result of the current emergency Mr. Staples asked the Board to consider increasing the number of CPE hours earned for the initial development or substantial updating of a course to three, in order to allow instructors to receive CPE credit for converting their current training programs to virtual or distance delivery. After discussion, Mr. Staples moved to request that the Director, pursuant to the authority granted in Executive Order 51, as amended, request a temporary waiver of Board Regulation 18VAC160-30-190.D and 18VAC160-40-330.D, as allowed by Executive Order 51, and allow certain licensees to receive up to three hours of continuing professional education (CPE), given the significant time investment by instructors to convert traditional classroom courses to virtual or distance delivery in response to the COVID-19 outbreak.. Ms. Duncan seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

**Discussion of
18VAC160-30-190.D
as it Relates to
Converting
Traditional
Classroom Training
to Online/Virtual
Training Due to
COVID-19**

Ms. Henshaw advised the Board that the Board for Contractors has begun a regulatory action to convert the current Sewage Disposal System (SDS) specialty into two categories, SDS-Alternative (SSA) and SDS-Conventional (SSC), in order to align the license of the

**Discussion of Board
for Contractors
Regulatory Action**

Qualified Individual to the type of license held from the WWOSSP Board. Ms. Henshaw advised that this will be done via the standard regulatory review process, which will include public comment periods to receive comments on the proposed amendment.

for SDS License Specialty

Ms. Henshaw presented the Board with tentative Board meeting dates for 2021, and advised that due to social distancing guidelines and limited availability of adequate space at Perimeter Center, some future Board meetings may be held at offsite locations. Mr. Fore moved to accept the following meeting dates:

Consider Future Meeting Dates

- January 14, 2021
- April 29, 2021
- July 8, 2021
- October 28, 2021

Mr. Staples seconded the motion which was unanimously approved by: Brockwell, Duncan, Evans, Ewing, Fore, Pruett, Roadcap, Staples, and Taylor.

Ms. Henshaw provided the Board with the most recent financial statements for review.

Board Financial Statements

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

Update on Outreach Opportunities

Mr. Ewing inquired as to the responsibility of the Board and DPOR to review the past work of licensees who have been found in violation of the Board's regulations. Ms. Broz-Vaughan advised the Board that its jurisdiction only extends to the specific matters before it, and does not extend to other matters which have not come before the Board by way of finding of a specific violation by investigation into a complaint.

Other Business

Discussion was held on minimum competencies and the shared responsibilities of separate agencies who regulate the same occupations.

Ms. Pruett reminded the Board that the next scheduled meeting date is October 22, 2020.

Future Meeting Dates

Ms. Pruett reminded the Board members to complete and return their conflict of interest forms and travel vouchers.

Complete Conflict of Interest Forms and Travel Vouchers

There being no further business, the meeting was adjourned at 11:27 a.m.

Adjourn

Pamela M. Pruett, Chair

Mary Broz-Vaughan, Secretary

DRAFT