

**VIRGINIA BOARD FOR
ASBESTOS, LEAD, AND HOME INSPECTORS
MEETING MINUTES**

The Virginia Board for Asbestos, Lead, and Home Inspectors met on February 7, 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 Board were present:

Keith Cronan
Dolores Daniels
Phillip Fincher
Rick Holtz
D. Bowen Hyatt
Brian Koepf

Reginald Marston, III
Kenneth Nash
Walter C. Nixon
Peter Palmer
D. Todd Vander Pol

Board members Bonnie Atwood, Colleen Becker, and Suzanne Blevins were not present at the meeting.

The following staff members were present for part or all of the meeting:

Gordon Dixon, Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Jill Hrynciw, Board Administrator
Thomas K. Perry, Board Administrator
Candace Howard, Legal Analyst
Betty C. Jones, Administrative Assistant

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

Mr. Cronan, finding a quorum of the Board present, called the meeting to order at 9:05 a.m. **Call to Order**

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

Ms. Henshaw indicated there have been some changes in staff responsibilities within the section. Tom Perry will be the Board Administrator for the ALHI Board and Jill Hrynciw will be the Board Administrator for the Common Interest Community Board. These changes are a result of efforts within the Agency to foster new ideas and perspectives in order to improve and streamline processes. Ms. Hrynciw and Mr. Perry will be working closely together during the transition. **Introduction of Staff**

Mr. Nixon moved to approve the agenda. Mr. Vander Pol seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to lead-based paint renovation, repair, and painting (RRP) until the effective date of the regulations.

Approval of Agenda

Mr. Cronan opened the floor for public comment. No members of the public present requested to speak.

**Public Comment
Period**

Mr. Cronan transferred the Chair to Mr. Hyatt and recused himself from the meeting.

Transfer of Chair

Regarding **File Number 2013-01184, Junior M. Horna-Pozo**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Horna-Pozo was present and addressed the Board. He indicated that he is now a legal resident of the United States and asked the Board to grant him a license. Ms. Howard asked that it be noted in the minutes that the Summary heading which reads Board for Asbestos, Lead, Mold and Home Inspectors should read Board for Asbestos, Lead, and Home Inspectors. Mr. Marston moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Horna-Pozo's asbestos supervisor application. Mr. Koepf seconded the motion which was unanimously approved by: Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. Mr. Cronan recused himself from the meeting and was not present during the discussion or vote as Mr. Horna-Pozo is an employee of his company.

**File Number 2013-
01184, Junior M.
Horna-Pozo**

Mr. Marston disclosed that he is familiar with Mr. Marsengill professionally but indicated he can be fair and impartial in consideration of this matter. Mr. Koepf disclosed that he also knows Mr. Marsengill professionally but indicated he can be fair and impartial in consideration of this matter.

**File Number
2012-02812 – Gary
William Marsengill**

Regarding **File Number 2012-02812, Gary William Marsengill**, the Board members reviewed the Consent Order as seen and agreed

to by Mr. Marsengill. Mr. Marsengill was not present. Ms. Howard asked that it be noted in the minutes that the Consent Order heading which reads Virginia Board for Asbestos, Lead, Mold and Home Inspectors should read Virginia Board for Asbestos, Lead, and Home Inspectors. Mr. Vander Pol moved to accept the Consent Order which cites the following violations of the Board's regulations: 18 VAC 15-40-130.A (Count 1); 18 VAC 15-40-190.6 (Count 2); 18 VAC 15-40-180 (Count 3). For these violations, Mr. Marsengill agrees to pay the following monetary penalties: \$50.00 for the violation contained in Count 1; \$200.00 for the violation contained in Count 2; \$250.00 for the violation contained in Count 3; and \$150.00 in Board costs, for a total monetary penalty of \$650.00.

In addition, for violation of Counts 1 through 3, Marsengill agrees to reimburse the \$395.00 inspection fee to Daniel Frank and provide the Board with proof of the payment within sixty (60) days of the effective date of this Order. If Marsengill fails to comply with this condition, then license suspension will be automatically imposed until compliance is obtained.

Mr. Fincher seconded the motion which was unanimously approved by: Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to (RRP) until the effective date of the regulations. As the reviewing Board member, Mr. Cronan was not present during the discussion or vote.

Mr. Cronan returned to the meeting and resumed the position of Chair.

Transfer of Chair

Regarding File Number 2013-00942, Rodney L. Bowers, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Bowers was not present. Mr. Vander Pol moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Bowers' asbestos worker application. Mr. Palmer seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective

File Number 2013-00942, Rodney L. Bowers

date of the regulations. Mr. Hyatt recused himself from the meeting and was not present during the discussion or vote due to his professional relationship with Mr. Bowers.

Regarding **File Number 2013-00943, Earl L. Gay, Jr.**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Gay was not present. Mr. Vander Pol moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Gay's asbestos worker application. Mr. Marston seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. Mr. Hyatt recused himself from the meeting and was not present during the discussion or vote due to his professional relationship with Mr. Gay.

File Number 2013-00943, Earl L. Gay, Jr.

Mr. Hyatt returned to the meeting.

Board Member Returned to Meeting

Regarding **File Number 2013-01376, William J. Culpeper**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Culpeper was not present. Mr. Hyatt moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Culpeper's asbestos supervisor application. Mr. Palmer seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

File Number 2013-01376, William J. Culpeper

Ms. Henshaw provided an overview of legislation that has been proposed to date for consideration during the 2013 Virginia General Assembly session as it pertains to the Board's programs. Ms. Henshaw explained that all Board and industry-related legislation is monitored by the Board and Department staff. While staff may provide technical information, data, and statistics regarding legislative proposals, Ms. Henshaw reminded the Board

Legislative Update

members that neither staff nor the Board has a position on a particular bill until such time as the Governor issues a position. Currently, staff is following Senate Bill 871 and House Bill 1851 (companion bill) and monitoring two agency bills: House Bill 1641 and Senate Bill 1179.

Ms. Henshaw gave an update on the current status of the regulatory review processes for several of the Board's regulatory packages. The fee adjustment changes in the Asbestos Licensing Regulations, Lead-Based Paint Activities Regulations, and the Certified Home Inspector Regulations are currently undergoing review by the Governor's office.

**Update on
Regulatory Activity**

Ms. Henshaw discussed the Governor's Regulatory Reform Initiative to conduct a comprehensive review of all DPOR regulations currently in place and repeal regulations that are unnecessary or no longer in use, reduce unnecessary regulatory burdens on individuals, businesses, and other regulated groups, and identify statutes that require unnecessary or overly burdensome regulations.

**Discussion of
Governor's
Regulatory
Reform Initiative**

A public comment period was held from November to early December to receive comments on regulations that could be eliminated or amended to reduce regulatory burdens. Simultaneously, staff conducted a review of the regulations to identify areas that can be reduced or eliminated. Two public comments were received: one regarding the Asbestos Licensing Regulations and one regarding the Certified Home Inspector Regulations.

Ms. Henshaw advised the Board that staff conducted a review of the regulations and based upon this review and the public comments received indicated that a review of the regulations was warranted. The Board discussed the following potential amendments: renewal procedures in 18 VAC 15-20-70 and the number of instructors required for a training program in 18 VAC 15-20-520 of the Asbestos Licensing Regulations; late renewal procedures in 18 VAC 15-30-167 of the Lead-Based Paint Activities Regulations; Continuing Professional Education (CPE) requirements in 18 VAC 15-40-72; and reinstatement in 18 VAC 15-40-90 of the Certified Home Inspector Regulations. Ms. Henshaw advised that a Notice of Intended Regulatory Action (NOIRA) for the Board for Asbestos, Lead, and Home Inspectors Regulations must be authorized by the Board if it wishes to initiate

**Consider
Authorization of
NOIRA**

the regulatory review process pursuant to the Governor's Regulatory Reform Initiative. A motion was made by Mr. Hyatt to authorize staff to file a Notice of Intended Regulatory Action for the Asbestos Licensing Regulations, Lead-Based Paint Activities Regulations, and Certified Home Inspector Regulations to proceed with consideration of amendments as discussed as well as any other amendments that may be identified that achieve the objectives of the Governor's Regulatory Reform Initiative. Mr. Palmer seconded the motion which was approved by: Cronan, Daniels, Fincher, Hyatt, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. Member voting in opposition to the motion was Mr. Koepf.

The Board recessed for a break at 10:48 a.m. and reconvened at 11:09 a.m. **Break**

Mr. Vander Pol moved that the Board approve the minutes of the following meetings: **Approval of Minutes**

- Board Meeting Minutes – November 8, 2012
- Informal Fact-Finding Meeting Minutes – December 4, 2012
- Informal Fact-Finding Meeting Minutes – December 6, 2012
- Informal Fact-Finding Meeting Minutes – December 19, 2012

Mr. Marston seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

The Board was provided with a memorandum from Ms. Hrynciw requesting Board guidance on the lead-based paint training grace period for lead license renewals. After discussion, Mr. Hyatt made a motion to adopt a guidance document to provide that the Board allow refresher training taken within three months of the 36 month period allowed by regulation be considered in compliance with the regulations, provided that all other requirements are met. Mr. Vander Pol seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to **Memo on Lead-Based Paint Training Grace Period**

vote on matters unrelated to RRP until the effective date of the regulations.

The Board was provided with a memorandum from Ms. Hrynciw requesting Board guidance on home inspector general liability insurance for home inspectors. After discussion, Mr. Hyatt made a motion to adopt a guidance document to provide that the Board allow a business liability insurance policy or a commercial general liability insurance policy with minimum limits of \$250,000 to be considered to meet the entry requirement found at 18 VAC 15-40-30.9. Further, it is acceptable for the applicant to be listed as an additional insured on a company general liability insurance policy, business liability insurance policy, or commercial general liability insurance policy instead of the policy being in the applicant's name so long as the minimum requirements of 18 VAC 15-40-30.9 are met. If for any reason Board staff cannot reasonably ensure that the applicant is sufficiently covered by the company's policy in accordance with 18 VAC 15-40-30.9, Board staff may require that requisite coverage be obtained in the name of the individual applicant. Mr. Fincher seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

**Memo on Home
Inspector General
Liability Insurance**

The following meeting dates have been scheduled:

- May 2, 2013
- August 15, 2013
- November 14, 2013


**Future Meeting
Dates**

Mr. Cronan requested that the Board members complete their conflict of interest forms and travel vouchers.

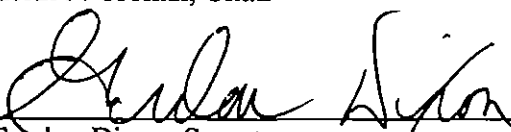
**Conflict of Interest
Forms and Travel
Vouchers**

There being no further business, the meeting adjourned at 11:24 a.m.

Adjourn



Keith F. Cronan, Chair



Gordon Dixon, Secretary

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Keith F. Cronan
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013
5. I have a personal interest in the following transaction:

RECUSED ON ITEM #7 FILE NO. 2013-01184 AS
APPLICANT IS MY EMPLOYEE
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:

SPECIAL RENOVATIONS, INC AGC of VA

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

or

I did not participate in the transaction.

- FOR ALL OTHER AGENDA ITEMS,
6. I do not have a personal interest in any transactions taken at this meeting.



Signature

2/7/13

Date

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

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

1. Name: Dolores C. Daniels
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 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.

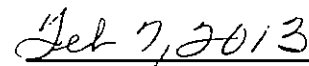
or

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: Phillip Fincher
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 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 interested in any transactions taken at this meeting.



Signature

2/7/13

Date

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

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

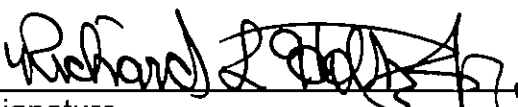
1. Name: Rick Holtz
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013
5. I have a personal interest in the following transaction:

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 interested in any transactions taken at this meeting.


Signature

2/7/13
Date

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: D. Bowen Hyatt
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013

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

Asbestos/Lead Contractor

Nature of Personal Interest Affected by Transaction: _____

Asbestos/Lead Contractor

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

N/A

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.

D. Bowen Hyatt
Signature

2/7/13
Date

I recused myself
from Bowers and Gay, Jr. cases/notes.
D. Bowen Hyatt
2/7/13

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Brian Koepf
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013
5. I have a personal interest in the following transaction:

Gary William Marsengill

Nature of Personal Interest Affected by Transaction: _____

Home Inspector - File # 2012-02812
is member of ASHI local chapter - so am I.

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

Home Inspection

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.~~

BK Koepf
Signature

2/7/2013
Date

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

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

1. Name: Reginald E. Marston, III
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013
5. I have a personal interest in the following transaction:

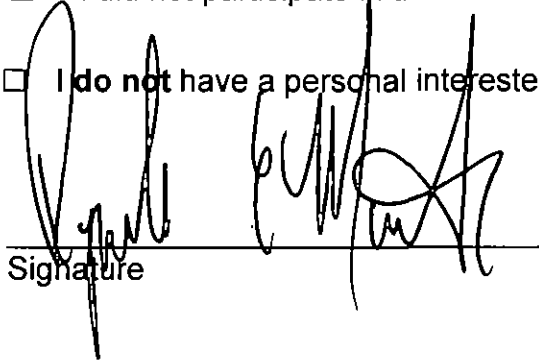
AGENDA ITEM 6

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

2/7/2013
Date

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

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

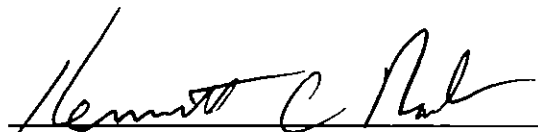
1. Name: Kenneth Nash
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013
5. I have a personal interest in the following transaction:

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

2-7-13
Date

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

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

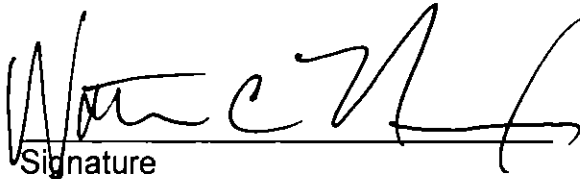
1. Name: Walter C. Nixon
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013
5. I have a personal interest in the following transaction:

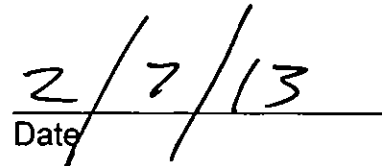
Nature of Personal Interest Affected by Transaction: _____

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 interested 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: Peter D. Palmer
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 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

2/7/2013

Date

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

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

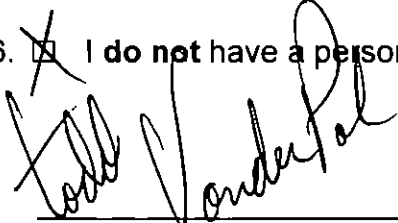
1. Name: D. Todd Vander Pol
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: February 7, 2013
5. I have a personal interest in the following transaction:

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

2-7-13
Date