

**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 10, 2013, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Richmond, Virginia 23233.

The following members of the Board were present:

John Aulbach, II
Frank L. Davis, Jr.
Kornell Davis, Jr.
Barry T. Dunkley
D. Perry Greene
Kristen Lentz
Michelle Ann Magrino
E. Brooke Philpy
Gary Schafran
D. Wayne Staples
Ronald R. Thomas

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

Gordon Dixon, Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Michele Atkinson, Board Administrator
Jill Hrynciw, Board Administrator
Betty C. Jones, Administrative Assistant

Elizabeth Peay from the Office of the Attorney General was not present.

Finding a quorum of the Board present, Mr. Philpy, Chair, called **Call to Order** the meeting to order at 9:01 a.m.

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

Mr. F. Davis moved to approve the agenda with an amendment to correct the presiding officers for items 13 and 14 to reflect that staff presided. Mr. K. Davis seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Magrino, Philpy, Schafran, Staples, and Thomas. **Approval of Agenda**

Mr. K. Davis moved that the Board approve the minutes of the following meetings: **Approval of Minutes**

Board Meeting Minutes, October 3, 2012
Education and Training Committee Minutes, October 3, 2012
Informal Fact-Finding Meeting Minutes, October 16, 2012
Informal Fact-Finding Meeting Minutes, November 6, 2012

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

Mr. Philpy opened the floor for public comment. Mr. Jeff Walker, a certified professional soil scientist, onsite soil evaluator and an interim alternative onsite sewage system installer, addressed the Board during the Public Comment Period. Mr. Walker expressed his concern about the difference in work product requirements of private onsite soil evaluators versus Virginia Department of Health (VDH) employees. Mr. Walker requested the Board, along with the boards that regulate soil scientists and professional engineers, discuss the responsibility, ethics, accountability, and standards in the industry to ensure that the public safety and welfare of citizens are being protected. **Public Comment Period**

At the October 3, 2012 Board meeting, members of the Board requested that Ms. Henshaw research issues that have arisen pertaining to onsite sewage system operators. In consideration of the variety of concerns presented and the number of professional areas that may be affected, Ms. Henshaw, in coordination with the Board Chair, proposed forming a committee of stakeholders to identify issues and concerns that have been raised by onsite sewage system professionals regarding specific requirements affecting their practice, and to recommend possible solutions to address such issues and concerns. **Consideration of Onsite Sewage System Professionals Workgroup**

Mr. Dixon suggested that the committee should include a consumer representative familiar with the process of having an onsite sewage system designed and installed.

After discussion, Mr. Dunkley made a motion to have the Board form the Onsite Sewage System Professionals Workgroup charged 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. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Magrino, Philpy, Schafran, Staples,

and Thomas.

After discussion, Mr. Staples made a motion to direct staff to extend an invitation to the following members to serve on the Workgroup: Mr. Philpy to serve as Chair of the Onsite Sewage System Professionals Workgroup; Mr. Aulbach, Mr. K. Davis, and Mr. Thomas were selected to serve as Board member representatives; staff members from the Virginia Department of Health (VDH); Wayne Gentry, industry representative; Mike Lynn, The SES Companies; Bob Marshall, Cloverleaf Environmental Consultant, Inc.; Curtis Moore, industry representative; a manufacturer representative; a professional engineer representative from the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects; and authorize Ms. Henshaw, in consultation with the Chair, to select an additional consumer member to serve on the Workgroup. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Magrino, Philpy, Schafran, Staples, and Thomas. Once a date has been set, the Workgroup will be notified.

Ms. Henshaw gave an update on the current status of the regulatory review process for the Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations. The fast-track regulatory action amending the definitions related to supervision and entry requirements for installers has completed the executive branch review. During the public comment period, sufficient objections were received to stop the fast-track process. The action was resubmitted using the standard process and is undergoing executive branch review.

**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. No public comments were received.

Ms. Henshaw advised the Board that staff conducted a review of

Consider

the regulations and recommends that the Board amend documentation required to qualify for the conventional onsite sewage system installers exam waiver by eliminating the need to provide documentation by specific professionals as required by 18 VAC 160-20-97.C.2.a. The Board discussed the provisions of 18 VAC 160-20-97 of the Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations concerning qualifications for licensure for onsite sewage system installers. Ms. Henshaw advised that a Notice of Intended Regulatory Action (NOIRA) for the Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations must be authorized by the Board if it wishes to initiate the regulatory review process pursuant to the Governor's Regulatory Reform Initiative. A motion was made by Mr. F. Davis to authorize staff to file a Notice of Intended Regulatory Action for the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations to proceed with the amendment of onsite sewage system installer requirements as well as any other amendments that may be identified that achieve the objectives of the Governor's Regulatory Reform Initiative. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Magrino, Philpy, Schafran, Staples, and Thomas.

Authorization of NOIRA

Ms. Henshaw provided an overview of the upcoming 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 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 House Bill 1482 and monitoring House Bill 1611 and House Bill 1726.

Legislative Update

Ms. Atkinson provided an updated Memorandum of the Wastewater Works Operators 2012 Continuing Professional Education (CPE) audit. As of November 2012, the regulant population for wastewater works operators totaled 2,374. Based on previous guidance from the Board, five percent of those regulants were randomly selected for audit, which equals 118 regulants selected. Individuals licensed less than two years as of February 29, 2012, were manually excluded. As of January 9, 2013, a total of 68 audits have been received, 55 passed, 12 were incomplete, and one extension was requested. Staff will be sending a follow-up letter on February 4, 2013, with a deadline of March 6, 2013, to all

Update on CPE Audit

regulants who have failed to respond or provided insufficient documentation. Ms. Atkinson will provide an update on the CPE audit at the next Board meeting.

Ms. Atkinson provided an update on the process developed in coordination with the Department of Corrections (DOC) for an alternative informal fact-finding conference (IFF) application process for Class 4 wastewater works operator apprentices. At the January 11, 2012, Board meeting, Mr. Dick advised the Board of Executive Order #11 (2010) which created the Virginia Prisoner and Juvenile Offender Re-entry Council, and the DOC's request for DPOR to assist with its Class 4 wastewater works operator apprenticeship program by providing informal fact-finding conferences prior to apprentices being eligible to sit for the Class 4 wastewater works operator apprentice exam, preferably within the first three months of their enrollment in the apprenticeship program.

**Update on
Department of
Corrections
Informal Fact-
Finding
Application Process**

Current licensure procedures require wastewater works operator applicants for licensure to submit an application and \$94 fee to PSI to take an exam, and after passing the exam, to submit an application and \$100 fee for licensure to DPOR, at which time criminal convictions are reviewed and a determination is made whether an IFF is required. Through collaboration with DOC and the Department's Information Systems (IS), Information Management (IM), and Exams Sections, and PSI, the exam vendor, the application process for DOC apprentice applicants has been revised. For each apprentice applicant, DOC will submit an application and \$100 fee to DPOR, the Board Administrative Proceeding Section (BAPS) will hold an IFF and render a recommendation, and the Board will determine the apprentice applicant's eligibility to sit for the exam. After an apprentice gains required experience, DOC will submit an exam application and \$94 fee to PSI. If no further criminal convictions are reported, the apprentice applicant remains eligible to take the exam. After passing the exam, the apprentice will be issued a Class 4 wastewater works operator license. Applicants have two years from Board approval to take and pass the examination.

There are currently 14 pending DOC applications.

The following resolution was presented for consideration by the Board.

**Consideration of
Resolution**

RESOLUTION TO

J. Wesley Kleene

WHEREAS, **J. Wesley Kleene** did faithfully and diligently serve as a member of the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals from 2005 to 2012;

WHEREAS, **J. Wesley Kleene** did devote generously of his time, talent and leadership to the Board;

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

WHEREAS, the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals this tenth day of January 2013, that **J. Wesley Kleene** be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Mr. F. Davis made a motion to adopt the resolution. Mr. Thomas seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Magrino, Philpy, Schafran, Staples, and Thomas.

In the matter of **File Number 2013-00767, Harold W. Walton, Jr.**, the Board members reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Walton was not present. Mr. Schafran moved to accept the recommendation of the Presiding Officer and approve Mr. Walton's application for a Class 3 waterworks operator license. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Magrino, Philpy, Schafran, Staples, and Thomas.

File Number 2013-00767, Harold W. Walton, Jr.

In the matter of **File Number 2013-00832, Clemith Armstrong Jackson, 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. Jackson was not present. Mr. Schafran moved to accept the recommendation of the Presiding Officer and approve Mr. Jackson's application for a Class 4 waterworks operator license. Mr. Greene seconded the motion which was unanimously approved by: Aulbach, F. Davis, K. Davis, Dunkley, Greene, Lentz, Magrino, Philpy, Schafran, Staples, and Thomas.

File Number 2013-00832, Clemith Armstrong Jackson, III

The Board revisited the scheduled April 4, 2013 Board meeting date. After discussion, the Board moved to adopt the following meeting date by consensus.

Future Meeting Dates

Thursday, April 11, 2013 (previously scheduled for
Thursday, April 4, 2013)

No other changes were made to the scheduled meeting dates.


Tuesday, July 9, 2013
Thursday, October 10, 2013

The Board members were reminded to complete their conflict of interest forms and travel vouchers. Ms. Henshaw reminded the Board members to complete their Statement of Economic Interests forms by January 15, 2013.

Conflict of Interest Forms and Travel Vouchers

There being no further business, the meeting was adjourned at 10:14 a.m.

Adjournment



E. Brooke Philpy, Chair



Gordon Dixon, Secretary

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: John Aulbach, II
2. Title: Board Member
3. Agency: WWWOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 2013

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

NA

Nature of Personal Interest Affected by Transaction:

NA

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

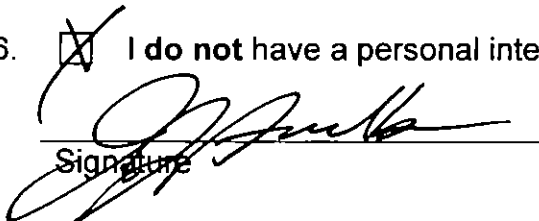
NA

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

1/10/13
Date

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

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

1. Name: Frank L. Davis, Jr.
2. Title: Board Member
3. Agency: WWWOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 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.

Frank L. Davis, Jr.
Signature

1-10-2013
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: WWWOOSSP Board
- 4. Meeting/IFF Date: Board Meeting January 10, 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

1-10-13
Date

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

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

1. Name: Barry T. Dunkley
2. Title: Board Member
3. Agency: WWWOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 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.

Barry T. Dunkley
Signature

1-10-13
Date

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

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

1. Name: Douglas Perry Greene
2. Title: Board Member
3. Agency: WWWOOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 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.

Douglas Perry Greene
Signature

1-10-13
Date

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

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

1. Name: Kristen Lentz
2. Title: Board Member
3. Agency: WWWOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 2013

5. I have a personal interest in the following transaction: *N/A*

Nature of Personal Interest Affected by Transaction:

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

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

or

I did not participate in the transaction.

6. I do not have a personal interest in any transactions taken at this meeting.

Kristen Lentz

Signature

1/10/13

Date

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

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

- 1. Name: Michelle Ann Magrino
- 2. Title: Board Member
- 3. Agency: WWWOOSSP Board
- 4. Meeting/IFF Date: Board Meeting January 10, 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.

Michelle Ann Magrino
Signature

1/10/13
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: WWWOSSP Board
- 4. Meeting/IFF Date: Board Meeting January 10, 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:

VA Assoc. of Professional Soil Scientists; 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

1/10/13
Date

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

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

1. Name: Gary Schafran
2. Title: Board Member
3. Agency: WWWOOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 2013

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

Nature of Personal Interest Affected by Transaction:

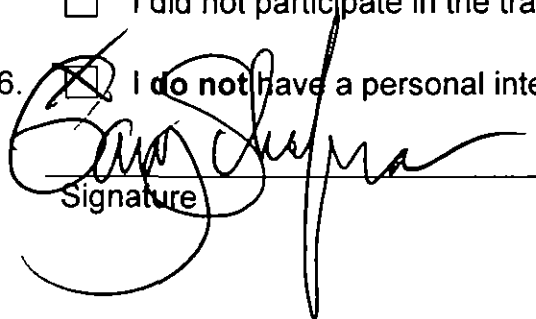
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

1-10-13
Date

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

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

1. Name: Donald Wayne Staples
2. Title: Board Member
3. Agency: WWWOOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 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.

Donald Wayne Staples
Signature

1/10/13
Date

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

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

1. Name: Ronald R. Thomas
2. Title: Board Member
3. Agency: WWWOSSP Board
4. Meeting/IFF Date: Board Meeting January 10, 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 R. Thomas

Signature

1/10/13

Date