

## BOARD FOR PROFESSIONAL SOIL SCIENTISTS

### MEETING MINUTES

The Board for Professional Soil Scientists met on April 14, 2004, at the Department of Professional and Occupational Regulation (DPOR), 3600 West Broad Street, Richmond, Virginia, with the following members present:

W. Lee Daniels  
David L. Davis  
Ann F. Jennings  
Carl D. Peacock, Jr.  
Donald R. Young

Board members Alice Coles and William Sledjeski were not present at the meeting.

Staff present for all or part of the meeting were:

Louise Fontaine Ware, Director  
Karen W. O'Neal, Deputy Director of Regulatory Programs  
Mark N. Courtney, Executive Director  
Marian H. Brooks, Program Administrator  
Tonie Robinson, Examinations Supervisor Senior

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

Finding a quorum of the Board present, Ms. Jennings, Vice-Chair, called the meeting to order at 10:06 a.m.

#### Call to Order

Mr. Daniels moved to approve the agenda as written. Mr. Peacock seconded the motion which was unanimously approved by members: Daniels, Davis, Jennings, Peacock, and Young.

#### Approval of Agenda

Mr. Daniels moved to approve the minutes from the January 14, 2004, Board meeting as written. Mr. Peacock seconded the motion which was unanimously approved by members: Daniels, Davis, Jennings, Peacock, and Young.

#### Approval of Minutes

Mr. Daniels moved to approve the minutes from the March 31, 2004, Examination Committee meeting as amended. Mr. Davis seconded the motion which was unanimously approved by members: Daniels, Davis, Jennings, Peacock, and Young.

Ms. Jennings read the following rules for the public hearing:

"Good morning ladies and gentlemen. I am Ann Jennings and I am the Vice-Chairman of the Board for Professional Soil Scientists.

"This is a public hearing held at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia. This hearing is being held pursuant to § 2.2-4007 of the Administrative Process Act of the Code of Virginia for the purpose of receiving public comment on the Board's proposed regulations for fee adjustments published in the Virginia Register on Monday, February 23, 2004.

"The list of interested parties and organizations which were notified of this process and invited to comment is available upon written request.

"The staff of the Department of Professional and Occupational Regulation will prepare a report of all public comment received which will be presented to the Board for consideration of any revisions to the proposed regulations.

"Please allow me to introduce the members of the Board for Professional Soil Scientists at this time. They are Carl Peacock, David Davis, Lee Daniels, and Donald Young.

"Now I would like to present the rules for this public hearing -

"Rules for this Hearing

"Comments will be received from any member of the public and initial comments will be limited to a maximum of 5 minutes depending on the number of individuals who wish to speak. If you have not signed up to speak and you wish to give testimony today, please sign your name on the sign up sheet at this time.

"Board members may ask speakers questions or to clarify statements. However, this is not the proper forum for questions to the Board. If you have a question for the Board, please forward them in writing, to the Board.

"Any speaker, who wishes to provide a written statement in addition to his oral testimony, or in lieu of oral testimony, may do so until Friday, April 23, 2004."

As no comments were presented to the Board members, the public hearing was closed.

**Public Comment Period** – No comments were made to the Board members.

**Public Comment**

Mr. Courtney and Ms. O'Neal provided an update on the status of the final certified wetland delineator regulations. Mr. Courtney and Ms. O'Neal informed the Board that the Department of Planning and Budget had disapproved the final regulations and that a decision from the Secretary of Commerce and Trade and the Governor's Office are awaited. The final regulations must be filed by May 12, 2004, in order to meet the July 1, 2004, statutory implementation date for the program.

**Update on Status of Final Certified Wetland Delineator Regulations**

The Board reviewed the draft application forms for the certified wetland delineator program. After discussion, Mr. Daniels moved to amend the application form to clarify the necessary documentation from those applying for examination waiver based on holding a provisional certificate from the U.S. Army Corps of Engineers Wetland Delineator Certification Program of 1993. Mr. Peacock seconded the motion which was unanimously approved by members: Daniels, Davis, Jennings, Peacock, and Young.

**Review of Application Forms for the Certified Wetland Delineator Program**

After review, Mr. Young moved to approve the experience log as drafted. Mr. Daniels seconded the motion which was unanimously approved by members: Daniels, Davis, Jennings, Peacock, and Young.

After review, Mr. Davis moved to approve the reference form as drafted. Mr. Daniels seconded the motion which was unanimously approved by members: Daniels, Davis, Jennings, Peacock, and Young.

The Board reviewed and discussed Chapter 22 of Title 54.1 of the *Code of Virginia* pertaining to certified professional wetland delineators. The Board discussed several changes that should be considered in the statute. The Board members agreed by consensus to revisit this issue at the July 14, 2004, Board meeting.

**Review Chapter 22 of Title 54.1 of the Code of Virginia**

The Board members were provided with the Board financial statements for February 2004 for informational purposes.

**Review Financial Statements**

Mr. Courtney notified the Board that new counsel from the Office of the Attorney General had been assigned to the Board. Eric Gregory,

**Other Business**

Assistant Attorney General, is the new Board counsel.

The Board members discussed which member will be responsible for the review of applications that are submitted for certification as professional soil scientists after June 30, 2004, as Mr. Sledjeski's term ends on July 1, 2004 (he is currently assigned this responsibility). After discussion, Mr. Peacock was selected as the member responsible for reviewing the aforementioned applications if he is reappointed. If Mr. Peacock is not reappointed, then Mr. Daniels will be responsible for review of the applications.

The Board members discussed which members will be responsible for reviewing the applications that are submitted for certification as a professional wetland delineator. After discussion, the Board members agreed by consensus that review of the applications will be shared among the three wetland delineator Board members. Mr. Courtney reminded the affected Board members that they will not be permitted to review their own applications for certification.

Mr. Courtney informed the Board members that elections will be held at the next Board meeting.

At 11:00 a.m., Mr. Davis moved that the meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation and/or briefings by staff members pertaining to examination issues within the jurisdiction of the Board as permitted by § 2.2-3711.A.11 of the Code of Virginia. The following non-member was in attendance to reasonably aid the consideration of the topic due to her knowledge of the examination and the examination development process: Tonie Robinson. The motion was made with respect to the matter identified as agenda item 9, Update on Status of Wetland Delineation Certification Examination, in order to review wetland delineation certification examination questions.

Closed Meeting

At 11:57 a.m., Mr. Daniels moved to adjourn the closed meeting and immediately reconvene in open meeting. Mr. Davis seconded the motion which was unanimously approved by members: Daniels, Davis, Jennings, Peacock, and Young.

Open Meeting

The following certification was read:

Certification of Closed Meeting

**CERTIFICATION OF CLOSED MEETING**

WHEREAS, the Board for Professional Soil Scientists has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Board for Professional Soil Scientists that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board for Professional Soil Scientists hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board for Professional Soil Scientists.

VOTE:5-0-2

AYES: Daniels, Davis, Jennings, Peacock, Young

NAYS:0


ABSENT: Coles, Sledjeski

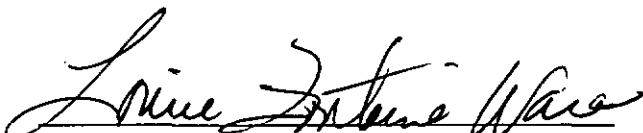
Conflict of Interest forms were completed by all members present.

**Conflict of Interest**

There being no further business, the meeting was adjourned at 11:58 a.m.

**Adjournment**

  
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Ann F. Jennings, Vice-Chair

  
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Louise Fontaine Ware, Secretary