

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on February 11, 2016, 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:

Sandra Baynes
Colleen Becker, Chair
Phillip Fincher
Erich J. Fritz
James E. Haltigan
Rick Holtz
Brian Koepf

Gene E. Magruder
Reginald E. Marston, III
Frederick Molter, IV
Kenneth Nash
Walter C. Nixon
Peter D. Palmer, Vice Chair

Board member Joe T. France was not present at the meeting.

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

Jay W. DeBoer, Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Kristin M. Clay, Board Administrator
Tanya M. Pettus, Administrative Assistant

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

Ms. Becker, finding a quorum of the Board present, called the meeting to order at 9:04 a.m.

Call to Order

Ms. Henshaw advised the Board of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Ms. Henshaw advised of amendments to the meeting agenda. Mr. Haltigan moved to approve the agenda as amended. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to renovation, repair, and painting (RRP) until the effective date of the regulations.

Approval of Agenda

Mr. Koepf moved to approve the minutes of the November 19, 2015, Board meeting. Mr. Fincher seconded the motion which was

**Approval of
Minutes**

unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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.

Ms. Henshaw advised the Board of newly-appointed Board Member Joe T. France, who will serve as the analytical laboratory representative. Mr. France was not in attendance.

Introduction of New Board Member

There were no members of the public present for comment.

Public Comment Period

In the matter of **File Number 2016-00972, Deion Smith-White**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's summary and recommendation. Mr. Palmer moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Smith-White's application for an asbestos worker license. Mr. Magruder seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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 2016-00972, Deion Smith-White

In the matter of **File Number 2016-00018, Claudia Patricia Osorto**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's summary and recommendation. Ms. Clay advised the Board of a correction to the Summary wherein the applications listed were numbered incorrectly. Mr. Molter moved to accept the summary and recommendation of the Presiding Officer, as amended, and deny Ms. Osorto's application for an asbestos worker license. Mr. Fritz seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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 2016-00018, Claudia Patricia Osorto

In the matter of **File Number 2016-00973, Otoniel Vega Dubon**, the Board members reviewed the application file, which consisted of the exhibits, and the Presiding Officer's summary and recommendation. Mr. Haltigan moved to accept the summary and

File Number 2016-00973, Otoniel Vega Dubon

recommendation of the Presiding Officer and deny Mr. Dubon's application for an asbestos supervisor license. Mr. Fincher seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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.

In the matter of **File Number 2016-00974, Mario Roberto Lopez Blandon**, the Board members reviewed the application file, which consisted of the exhibits, and the Presiding Officer's summary and recommendation. Mr. Fritz moved to accept the summary and recommendation of the Presiding Officer and deny Mr. Blandon's application for an asbestos supervisor license. Mr. Nixon seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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 2016-00974, Mario Roberto Lopez Blandon

After the vote, discussion was held on the number of applications received by staff with invalid social security numbers. Ms. Henshaw advised that the statute requires a social security number or driver's license number on all licensing applications. Ms. Henshaw explained the process used by staff to verify social security numbers.

In the matter of **File Number 2016-00975, Miguel Gomez**, the Board members reviewed the application file, which consisted of the exhibits, and the Presiding Officer's summary and recommendation. Mr. Magruder moved to accept the summary and recommendation of the Presiding Officer and deny Mr. Gomez's application for an asbestos supervisor license. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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 2016-00975, Miguel Gomez

In the matter of **File Number 2016-01002, Nathaniel Eugene Phillips**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's summary and recommendation. Mr. Haltigan moved to accept the

File Number 2016-01002, Nathaniel Eugene Phillips

summary and recommendation of the Presiding Officer and deny Mr. Phillips' application for an asbestos worker license. Mr. Fincher seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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.

Ms. Henshaw provided an update on the current status of the regulatory review processes for the Board's regulatory packages. The proposed Certified Home Inspector Regulations were filed for executive branch review on November 20, 2015.

**Update on
Regulatory Review
Processes**

The proposed Lead-Based Paint Renovation, Repair, and Painting Program Regulations (Initial Promulgation) are currently undergoing review by the Governor's office. If approved, the regulations will be posted to the Virginia Register and a 60-day public comment period will commence, to include a public hearing.

Ms. Henshaw provided an update of the asbestos and lead training course audits that have been conducted since the Board's last meeting.

**Asbestos and Lead
Training Course
Audits**

Discussion was held on course cancellations. Ms. Henshaw and Mr. DeBoer explained the responsibility of training course providers to notify the Board of cancellations of scheduled training classes.

Ms. Henshaw provided an update on certified home inspectors continuing professional education (CPE) audits. The audits were conducted on a random group of individuals whose certifications had expired between April 30, 2015 and September 30, 2015. The next scheduled audit will take place in April 2016.

**Update on Certified
Home Inspector
CPE Audits**

There was discussion on the selection of licensees and certificate holders to be audited. Ms. Henshaw explained the filtering process used to determine the auditees to the Board.

Discussion was held on the definition of "employee" as it relates to asbestos project monitoring licensing. Currently a person is considered an employee whether the contract of hire is expressed or implied, oral or written. Ms. Becker stated the need for clarification of the term due to concerns over the relationship between project monitors and asbestos analytical laboratories when

**Consider Guidance
Document for
Definition of
Employee**

performing clearances on asbestos abatement, directly affecting public safety. Ms. Henshaw provided the Board with the *IRS 20 Factors and Virginia Exemptions for Employee Classification* document as a reference for defining “employee”. After discussion, Mr. Magruder motioned to adopt a guidance document that incorporates the IRS 20 factors and Virginia exemptions, and that such factors will be used to determine whether an employment relationship exists pursuant to 18 VAC 15-20-456 (D). Mr. Nixon seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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.

Ms. Henshaw updated the Board on legislation affecting the Board and/or its programs.

2016 Legislative Update

Board members considered the following resolution for former Board member Suzanne Blevins:

Consideration of Resolution for Service

Suzanne Blevins

WHEREAS, **Suzanne Blevins**, did faithfully and diligently serve as a member of the Virginia Board for Asbestos, Lead, and Home Inspectors from 2011 to 2015;

WHEREAS, **Suzanne Blevins**, did devote generously of her time, talent and leadership to the Board;

WHEREAS, **Suzanne Blevins**, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Asbestos, Lead, and Home Inspectors 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 Asbestos, Lead, and Home Inspectors this eleventh day of February, 2016, that **Suzanne Blevins** be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens; and

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

Mr. Fritz moved to adopt the resolution as presented. Mr. Nixon seconded the motion which was unanimously approved by: Baynes, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, Nixon, and Palmer. Board members Becker, 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.

Ms. Henshaw reminded Board members of conflict of interest training still outstanding that must be completed by members of the Board every two years.

Other Board Business

The following meeting dates have been scheduled:

Future Meeting Dates

- May 17, 2016
- August 18, 2016
- November 15, 2016

Ms. Henshaw 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 10:25 a.m.

Adjourn

Colleen Becker, Chair

Jay W. DeBoer, Secretary