

**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 14, 2016, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 2, Richmond, Virginia 23233.

The following members of the Board were present:

John Aulbach, II  
James N. Brockwell  
Rosa-Lee Cooke  
Barry T. Dunkley  
John Ewing  
Thomas Wayne Fore  
D. Perry Greene, Chair  
Kristen Lentz  
D. Wayne Staples

Board member Pamela M. Pruett was not present at the meeting.

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

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.

Finding a quorum of the Board present, Mr. Greene, Chair, called **Call to Order** the meeting to order at 9:00 a.m.

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

Mr. Fore arrived at 9:03 a.m. **Arrival of Board Member**

Ms. Henshaw advised of an addition to the agenda. Mr. Aulbach moved to approve the agenda as amended. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples. **Approval of Agenda**

Mr. Staples moved that the Board approve the minutes of the October 15, 2015, Board meeting, and the minutes of the November 13, 2015, Examination Exploratory Committee meeting. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

**Approval of Minutes**

Ms. Henshaw introduced newly-appointed Board member Rosa-Lee Cooke.

**Introduction of New Board Members and Staff**

Ms. Henshaw opened the floor for public comment. Mr. Bob Marshall, AOSE, voiced concerns over the Department of Health's definition of "malfunction". Mr. Marshall stated contamination in ground water is no longer considered a malfunction per the Department of Health's definition. He asked the Board to consider the responsibility of a licensee to approve systems in which there is contamination present in ground water. Mr. Marshall asked the Board to consider drafting a guidance document for clarity on the subject.

**Public Comment Period**

Mr. Jim Slusser, AOSE, also addressed the Board during the public comment period. Mr. Slusser asked the Board if the State has a clear policy on displacing competition. He indicated that small businesses are affected by the Department of Health's regulations and its relationship to the WWOOSSP Board. Mr. Slusser voiced concerns about executive branch agencies regulating one another and stated that the Department of Health is a monopoly.

In the matter of **File Number 2016-00779, Robert Kermint Mason**, 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. After discussion, Mr. Staples moved to accept the recommendation of the Presiding Officer and approve Mr. Mason's application for a Class 1 Wastewater Works Operator license. Ms. Lentz seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

**File Number 2016-00779, Robert Kermint Mason**

In the matter of **File Number 2016-00688, Benjamin J. 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

**File Number 2016-00688, Benjamin J. Marshall**

an Alternative Onsite Sewage System Installer license. Mr. Brockwell seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

In the matter of **File Number 2016-01150, Clinton Orlando Staten**, 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. Staples moved to accept the recommendation of the Presiding Officer and approve Mr. Staten's application for a Class 4 Wastewater Works Operator license contingent upon completion of the Department of Corrections (DOC) Wastewater Works Operator Class 4 Apprenticeship Program, meeting all entry requirements contained in the Board's regulations, and passing the applicable examination. Ms. Cooke seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

**File Number 2016-01150, Clinton Orlando Staten**

In the matter of **File Number 2016-01428, Thomas Westley Crowe, 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. Dunkley moved to accept the recommendation of the Presiding Officer and approve Mr. Crowe's application for a Conventional Onsite Sewage System Installer license. Ms. Lentz seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

**File Number 2016-01428, Thomas Westley Crowe, Jr.**

In the matter of **File Number 2016-01004, Berkley Leroy Kelley**, 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. Aulbach was present to answer questions from the Board. Mr. Aulbach moved to accept the recommendation of the Presiding Officer and approve Mr. Kelley's application for a Class 6 Waterworks Operators license. Mr. Staples seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

**File Number 2016-01004, Berkley Leroy Kelley**

Ms. Henshaw advised the Board of the status of the Board's regulatory actions that are in process. The regulatory action for fee adjustment has been withdrawn. In addition, proposed amendments to the regulations made pursuant to the Board's general review were published in the Virginia Register on December 14, 2015.

**Update on Regulatory Review Processes**

Public comments may be submitted in writing via fax, email, or the Town Hall website until end of business on February 12, 2016. In addition, a public hearing will be held on January 28, 2016 to hear public comments on the proposed change.

Ms. Henshaw advised that a periodic review was conducted on all of the Board's regulations in accordance with Executive Order 17, and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia. A public comment period was held and six comments were received. Ms. Henshaw presented the public comments received during the public comment period. After discussion, Ms. Lentz moved to accept the draft responses to the public comments as proposed by staff. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

**Consider Public  
Comments on  
Periodic Review**

After the Board reviewed comments, Mr. Staples moved to retain the current Board regulations and not commence a regulatory review process to amend the regulations. Ms. Lentz seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

Ms. Henshaw advised there were no comments received on Public Participation Guidelines. Mr. Staples moved to retain the current Board regulations and not commence a regulatory review process to amend the regulations. Mr. Dunkley seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

Ms. Henshaw presented the Board with a five year overview of exam statistics from the Board's current and past exam vendors.

**Examination  
Statistics Report**

Ms. Henshaw advised that Board members and others considered "subject matter experts" for the various Board examinations may be contacted in the near future by the current exam vendor to participate in exam reviews.

Ms. Clay provided an update on waterworks operator continuing professional education (CPE) audits. The audits were conducted on a random group of individuals making up 5% of the regulant population.

**2015 Waterworks  
Operator CPE  
Audit Report**

Discussion was held on the selection of licensees to be audited. Ms. Clay explained the filtering process used to determine those selected for audit by the Board.

Board members considered the following resolution for former

**Consideration of**

Board member Michelle Ann Magrino:

**Resolutions for  
Service**

**Michelle Ann Magrino**

WHEREAS, Michelle Ann Magrino, did faithfully and diligently serve as a member of the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage Professionals from 2011 to 2015;

WHEREAS, Michelle Ann Magrino, did devote generously of her time, talent and leadership to the Board;

WHEREAS, Michelle Ann Magrino, 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 Waterworks and Wastewater Works Operators and Onsite Sewage 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 Professionals this fourteenth day of January 2016, that Michelle Ann Magrino 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.

Board members considered the following resolution for former Board member Gary Schfran:

**Gary Schafran**

WHEREAS, Gary Schafran, did faithfully and diligently serve as a member of the Virginia Board for Waterworks and Wastewater Works Operators and Onsite Sewage Professionals from 2011 to 2015;

WHEREAS, Gary Schafran, did devote generously of his time, talent and leadership to the Board;

WHEREAS, Gary Schafran, 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 Waterworks and Wastewater Works Operators and Onsite Sewage 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 Professionals this fourteenth day of January 2016, that Gary Schafran 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. Dunkley moved to adopt both resolutions as presented. Mr. Fore seconded the motion which was unanimously approved by: Aulbach, Brockwell, Cooke, Dunkley, Ewing, Fore, Greene, Lentz, and Staples.

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

**Update on Outreach Opportunities**

Mr. Robbie E. Jones of the Department of Corrections (DOC) presented the Board with an overview of the Environmental Service Unit's Wastewater Treatment Operator Apprenticeship Program for offenders. Mr. Jones discussed with the Board current requirements, successes, and opportunities of the program. The Board thanked Mr. Jones and other DOC staff for their work in this program and the opportunities it provides to individuals who are attempting to re-enter the workforce.

**Department of Corrections Apprenticeship Presentation**

The Board recessed from 10:28 a.m. to 10:40 a.m.

**Recess**

Ms. Henshaw advised the Board that the 2016 General Assembly session began on January 13, 2016. Ms. Henshaw reminded the Board that staff actively monitors legislation throughout the General Assembly session and provides data and information regarding the Board and Department relevant to legislative proposals affecting the Board.

**2016 Legislative Update**

Ms. Henshaw advised that Board staff is currently monitoring seven bills that the Board is not actively involved with, but are

related to the Board and/or its programs.

Ms. Clay provided a memorandum to the Board outlining the requirements for dual licensure for alternative onsite sewage systems. Discussion was held on the regulatory requirements for licensure and the parameters of the class of licensure. After discussion, the Board agreed by consensus to take the matter under consideration and continue the discussion at a future date.

**Other Board  
Business**

Ms. Henshaw provided the Board with information on the Examination Exploratory Committee and advised the next Committee meeting date will be March 8, 2016.

Ms. Henshaw introduced Marty Mooradian to the Board. Mr. Mooradian is a member of the Board for Professional and Occupational Regulation and serves as the liaison to the WWOOSSP Board.

The following meeting dates have been scheduled:

- April 21, 2016
- July 28, 2016
- October 27, 2016

**Future Meeting  
Dates**

Board members were reminded to complete their conflict of interest forms and travel vouchers.

**Conflict of Interest  
Forms and Travel  
Vouchers**

There being no further business, the meeting was adjourned at 11:07 a.m.

**Adjourn**

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D. Perry Greene, Chair

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Jay W. DeBoer, Secretary