

NCOWCICB
BOARD MEETING AGENDA AND MINUTES
May 11, 2018 9:00 a.m.
LOCATION: Hilton Garden Inn Raleigh Durham Airport
1500 RDU Center Drive Morrisville NC 27560

9:00 a.m. CALL TO ORDER: RUSS DAVIS
OPENING PRAYER: JERRY PEARCE
ROLL CALL: ALL PRESENT EXCEPT WALTER JAMES ABSENT, ADAM WATERS HAS RESIGNED HIS POSITION AND RECOMMENDATION HAS BEEN MADE TO GOVERNOR FOR REPLACEMENT
READING OF ETHICS STATEMENT
ETHICS STATEMENT: In accordance with the State Government Ethics Act, it is the duty of every [Board] member to avoid both conflicts of interest and appearances of conflict. Does any [Board] member have any known conflict of interest or appearance of conflict with respect to any matters coming before the [Board] today?
If so, please identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved.

NONE

9:10 a.m. RECOGNITION OF ANY ATTENDING PUBLIC AND REQUEST TO ADDRESS BOARD (PLEASE NOTE: PUBLIC MAY ADDRESS THE BOARD DURING THIS SECTION OF BOARD MEETING. BOARD WILL NOT RESPOND TO COMMENTS OR REQUEST MADE BY PUBLIC. REQUEST MADE BY PUBLIC DURING THIS SESSION WILL BE PLACED ON A FUTURE BOARD AGENDA FOR DISCUSSION. PUBLIC WILL BE ALLOWED MAXIMUM OF FIVE (5) MINUTES PER PERSON TO ADDRESS BOARD. PUBLIC WILL NOT BE ALLOWED COMMENT FOR REMAINDER OF BOARD MEETING.

DOUG LASSITER, NCSTA

9:10 a.m. Approval of Minutes from December 8, 2017 meeting (see minutes attached)
MOTION TO APPROVE DIANA RASHASH, 2ND MARK BROOKS, APPROVED

9:15 a.m. Update from Administrator:

- Renewal deadline has past. We have had some to retired and some have passed away, but the new certification holders have made up for the loss of those certification holders and the numbers are up slightly from the last few years. The 18 hour class held for new installers in May 63 attendees for the class. The economy is starting to turn and I'm getting a lot of calls about getting certified it should be a busy year.
- Thank you to all Board members for filing the SEI forms as required
- REMINDER Any Board member that has not taken the required Ethics training should do so immediately. Once you have taken the course please send me a copy of the completion certificate. Information for required Ethics training for Board members can be found at <http://www.ethicscommission.nc.gov/education/default.aspx>
- The following is what the Ethics Commission records show regarding the Board member's Ethics Training as of 11/20/17:

Board Member	Last Date Rcvd	Next Due Date
Russ Davis	1/10/18	1/10/20
Russ Ayers	11/2/17	11/2/19
Jerry Pearce	8/23/17	8/23/19
Diana Rashash	8/28/17	8/28/19

Glenn Hines	4/15/18	4/15/20
Mark Brooks	4/15/16	4/15/18
Walter James	11/30/16	11/30/18
Adam Waters	10/31/16	10/31/18
David Swinney	2/20/18	2/20/20
Connie Stephens(EL)	4/14/17	4/14/19

- Class Approval Request:

DISCUSSION HELD ABOUT NEW 18 HOUR AND INSPECTOR CLASS
MOTION FROM DAVID SWINNEY TO LIMIT 18 HOUR AND INSPECTOR CLASS TO MAXIMUM 30 ATTENDEES, 2ND MARK BROOKS, APPROVED

Halifax County: This is first request from this county. The class was scheduled prior to this meeting and I explained that we do not issue retroactive approvals. The class was held and not credit was offered for installers. I gave them the dates that the Board meets each year and told them the request must be received a minimum of two weeks prior to the meeting. NO APPROVAL ISSUED

Orange County: This reapproval of class held last year. ^ hours all levels MOTION TO APPROVE DAVID SWINNEY, 2ND DIANA RASHASH, APPROVED

- Inspection Report: At the last meeting it was discussed to revise the Inspection Form. Attached to this agenda is a revised form. The form itself hasn't been revised so much as having some additions made to it, the additions are highlighted. One of the areas that I get a lot of calls about is the D-box, a section has been added to D-box details and also as requested by the Board a statement that the report is subject to review by the Board and Inspector must submit to the Board upon request.

Motion to add CA date to Inspection form made by JERRY PEARCE, 2ND GLENN HINES, approved

Motion to accept form as adjusted, DAVID SWINNEY, 2ND GLENN HINES, approved

9:30 a.m. Treasurer's Report by Jerry Pearce, Treasurer
Financial Report as of March 31, 2018

Monies on hand:	
Capital Bank Operating Account	\$162,485.00
Select Bank*	\$237,126.84
Bank of Oak Ridge*	\$232,321.41
Sound Bank*	\$208,637.33
North State Bank*	\$178,837.48
New Bridge Bank*	<u>\$203,583.47</u>
Total Monies on hand	\$1,222,991.53

(*CD held for future enforcement)

See detailed YTD Financial Report Attached

Motion to approve RUSS AYERS, 2ND MARK BROOKS, APPROVED

9:40 a.m. Rules Writing Committee:

At the meeting in December items needed in rules were discussed and the rule writing committee worked on these revisions. The revisions are attached to this agenda and need to be reviewed by the Board and a vote to move forward with rule revision process is needed.

ANNA STATED THAT GOING FORWARD BEST TO GET PREVIEW FROM RCC FOR TECHNICALITIES PRIOR TO PRESENTATION TO BOARD

Motion to approve rules, JERRY PEARCE, 2nd MARK BROOKS, approved

10:00 a.m. Board shall enter Closed Session for discussion of complaints received
MOTION TO GO INTO CLOSED SESSION JERRY PEARCE, DAVID SWINNEY

11:00 a.m. Board shall re-enter regular session
Motion to re-enter regular session DAVID SWINNEY, 2ND DIANA RASHASH

THE FOLLOWING COMPLAINTS WERE DISCUSSED IN CLOSED SESSION:
COMPLAINTS REVIEWED AND DECISIONS BY BOARD LISTED UNDER EACH COMPLAINT

Complaint number: 3291801, Certified Installer. Installed system did not follow specs of permit as written and after a pre-construction meeting. MOTION TO SEND ADMISSION OF GUILT RUSS AYERS, MARK BROOKS, APPROVED

Complaint Number: 361801, Incomplete inspection, MOTION TO REVOKE, GLENN HINES, 2ND RUSS AYERS, APPROVED

Complaint Number: 01111801, Inspect without certification, MOTION SEEK INJUNCTION DAVID SWINNEY, 2ND GLENN HINES, APPROVED

Complaint Number: 04261801, Incomplete inspection, MOTION FOR STAYED SUSPENSION 6 MONTHS, MUST TAKE INSPECTOR CLASS, AND COPIES OF ALL INSPECTIONS PERFORMED FOR 6 MONTHS MUST BE SENT TO BOARD, RUSS AYERS, 2ND DIANA RASHASH, APPROVED

Complaint Number: 03301801, Incomplete installation, MOTION FOR SUSPENSION FOR 6 MONTHS, JERRY PEARCE, 2ND GLENN HINES, APPROVED

11:05 a.m. Update from Counsel Anna Choi, GAVE GLENN HINES THE 93B TRAINING, ALL BOARDS MUST BE ON FISCAL YEAR 7/1 – 6/30. NCOWCICB IS ALREADY USING THIS

11:30 a.m. Next Scheduled Board Meeting: December 14, 2018 9 a.m. in Raleigh, keep in mind the Board meetings have been set as second Friday in May and December.

11:30 a.m. Meeting Adjourn motion to adjourn MARK BROOKS, 2ND RUSS AYERS, MEETING ADJOURNED

NCOWCICB Financial Report as of March 31, 2018

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Capital Bank Operating Account	\$162,485.00
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(*CD held for future enforcement)	

YTD Receipts**

Fees Received	\$194,675
Interest Income	<u>\$ 3,869</u>
Total Receipts	\$198,544

YTD Expenditures**

Postage	\$ 1,540
Printing	\$ 10,781
Travel – Board	\$ 3,340
Travel – Staff	\$ 2,508
Telephone	\$ 2,367
Misc Expense	\$ 769
Bank Charges	\$ 135
Accounting	\$ 17,480
Salaries	\$ 55,428
Payroll Taxes	\$ 4,288
Office Expense	\$ 1,708
Depreciation	\$ 350
Office Rent	\$ 4,500
Investigations	\$ 350
Hearing Expense	\$ 0
Meeting Expense	\$ 906
Web Expense	\$ 1,507
Legal Fees	<u>\$ 6,856</u>
Total Expenditures	\$ 114,813

(**Fiscal year runs July 1 – June 30th)

On-site Wastewater Pre-inspection Contract

Client Name: _____

Client Address: _____

Client Phone: _____

Property Address: _____

Client is: Owner of Record Realtor Lender Buyer Seller
 Other (Describe) _____

Certified Inspector Name: _____

Company Name: _____

Company Address: _____

Inspector Certification Number: _____ Inspector Phone: _____

Certification Expires: December 31, 20_____

The on-site wastewater system inspection, hereinafter referred to as Inspection, shall be performed in accordance with 21 NCAC 39 .1004, 21 NCAC 39 .1005 and 21 NCAC 39 .1006. General Statutes, Rules and Minimum Inspection Requirements, can be viewed at www.ncowcicb.info

Services provided shall include: Inspection meeting minimum requirements
 Pumping of Tank
 Other (Describe) _____

Cost of Services to be provided: \$ _____

Inspector is not required to report on:

1. Life expectancy of any component or system
2. The causes of the need for a repair
3. The methods, materials and costs of corrections
4. The suitability of the property for any specialized use
5. The market value of the property or its marketability
6. The advisability or inadvisability of purchase of the property
7. Normal wear and tear to the system

Inspector is not required to:

1. Identify property lines
2. Offer warranties or guarantees of any kind
3. Calculate the strength, adequacy, or efficiency of any system or component
4. Operate any system or component that does not respond to normal operating controls
5. Move excessive vegetation, structures, personal items, panels, furniture, equipment, snow, ice, or debris that obstruct access to or visibility of the system and any related components
6. Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including toxins, carcinogens, noise, and contaminants in the building or in soil, water, and air
7. Determine the effectiveness of any system installed to control or remove suspected hazardous substances
8. Predict future condition, including failure of components
9. Project operating costs of components
10. Evaluate acoustical characteristics of any system or component
11. Inspect equipment or accessories that are not listed as components to be inspected
12. Conduct dosing volume calculations
13. Evaluate soil conditions beyond saturation or ponding
14. Evaluate for the presence or condition of buried fuel storage tanks
15. Evaluate the system for proper sizing, design, or use of proper materials
16. Perform a hydraulic load test on the system

Fix indent

Inspector is required to:

- 1. Uncover tank lids and distribution devices so as to gain access unless blocked as described om 21 NCAC 39 .1004(b)(5). The distribution box may remain covered if the Inspector has an alternate method of observing its condition.**
- 2. Probe system components where deterioration is suspected**
- 3) Report the methods used to inspect the on-site wastewater system**
- 4) Open readily accessible and readily openable components**
- 5) Report signs of abnormal or harmful water entry into or out of the system or components**

As required by 21 NCAC 39 .1002 (1) this contract must be provided by Inspector and signed by client or client's representative prior to Inspection being performed.

Signature below acknowledges receipt of copy of this contract and acceptance of Inspection as stated above:

Signature of Client or Client's Representative

Date

Signature of Inspector

Date

Note: 21 NCAC 39 .1002 (2) Written permission from owner or owner's representative to perform the inspection be acquired prior to the inspection.

_____ ft from house or structure
_____ ft from well or spring if applicable
_____ ft from water line if applicable
_____ ft. from property line if property lines are known
_____ ft from septic tank
_____ Distance from finished grade to top of tank or access riser
_____ Access risers in place yes no
_____ Describe type of access risers: _____
_____ Describe condition of tank lids _____
Location of control panel: _____
Condition of control panel: _____
_____ Audible and visible alarms (as applicable) work
_____ Pump turns on and effluent is delivered to next component
_____ Unable to operate pump due to lack of electricity at site at
time of inspection

Dispersal field: Type of system: Conventional Accepted Innovative Experimental Controlled Demonstration
 Pretreatment; Type of Pretreatment _____

Brief Description of System Type _____

_____ ft. from property line if property lines are known

_____ ft from septic/pump tank

_____ # of lines

_____ length of lines

_____ Evidence of past or current surfacing at time of inspection

_____ Briefly describe: _____

_____ Evidence of traffic over the dispersal field

_____ Vegetation, grading and drainage noted that may affect the condition of the system or system components

_____ Effluent is reaching the dispersal field

Distribution Box(es) details:

_____ Distribution Box(es) present

_____ Distribution Box(es) located

_____ Distribution Box(es) uncovered

_____ Distribution Box(es) inflow is sufficient

_____ Distribution Box(es) outflow is sufficient

_____ Condition of Distribution Box(es) Describe briefly _____

_____ Roots present in Distribution Box(es)

_____ Unable to locate Distribution Box(es). Describe briefly the reason why _____

Conditions present that prevented or hindered the inspection

Adverse conditions present that require repair or subsequent observation or warrants further evaluation by the local health department. Description of adverse condition: _____

Client should contact _____ County Environmental Health and/or a certified on-site wastewater contractor

Other pertinent facts noted during inspection: _____

Inspector Name: _____ Certification # _____

Address _____

Phone _____

No representation, warranties or opinions are hereby given, written or expressed otherwise, as to the future performance of onsite wastewater system described herein. This onsite wastewater system inspection is a presentation of system facts in place on date of inspection.

Inspector Signature: _____ Date _____

This Inspection is subject to review by The North Carolina Onsite Wastewater Contractor Inspector Certification Board. Upon request from The Board the certified Inspector shall submit this report within twenty-one (21) business days.

SECTION .0100 – DUTIES AND DEFINITIONS

21 NCAC 39 .0120 PETITIONS FOR RULE-MAKING

Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the Board shall address a petition to the Board’s Executive Director, at the address set forth on the Board’s website.

21 NCAC 39 .0121 CONTENTS OF PETITION FOR NEW RULE

(a) A petition requesting the adoption of a rule shall:

- (1) Provide either a draft of the proposed rule or a summary of the contents of the proposed rule;**
- (2) State reasons for the proposal;**
- (3) Indicate the effect of the new rule on existing rules;**
- (4) Include data supporting the rule proposal;**
- (5) Indicate the effects of the rule on existing practices in the area involved; and**
- (6) Provide the name, address, and telephone number of each petitioner.**

21 NCAC 39 .0122 CONTENTS OF PETITION FOR RULE AMENDMENT OR REPEAL

(a) A petition for Rule Amendment or Repeal shall:

- (1) Identify the rule affected;**
- (2) State reasons for the change;**
- (3) Provide either a draft of the proposed amendment or a summary of the proposed amendment, if the petition is to amend the rule;**
- (4) Include data supporting the rule proposal;**
- (5) Indicate the effects of the proposed change on existing practices in the area involved; and**
- (6) Provide the name, address, and telephone number of each petitioner.**

21 NCAC 39 .0123 GRANTING OR DENYING PETITIONS

- (a) The granting or denying of petitions shall be done in accordance with G.S 150B-20(b), (c), and (d).**
- (b) The Executive Director of the Board shall make a recommendation to a committee of the Board. The committee shall recommend to the full Board, based on a study of the facts stated in the petition, whether the public interest will be better served by granting or denying the petition. The Board will consider all the contents of the submitted petition plus any additional information deemed relevant.**

21 NCAC 39 .0130 RULE MAKING NOTICE AND PUBLIC HEARING

- (a) Any person who wishes to receive individual notice of Board rule making notices issued pursuant to G.S. 150B-21.2 may file a request in writing, furnishing their name and mailing address, to the Executive Director of the Board, at the address set forth on the Board’s website.**
- (b) Any public rule-making hearing shall be conducted by the Board Chair or by any person he or she may designate.**
- (c) The presiding officer shall have control of the hearing, including setting limits on oral presentations, and shall conduct the hearing so as to provide a reasonable opportunity for any interested person to present views, data, and comments.**

(The 40-42 below weren’t on our list; however, they are required according to the statute referenced and I’m seeing them in other Board’s rules.)

21 NCAC 39 .0140 DECLARATORY RULINGS

(a) Any person aggrieved, as defined in G.S. 150B 2(6), by a statute administered or rule promulgated by the Board may request a declaratory ruling as to how the statute or rule applies to a given factual situation or whether a particular Board rule is valid.

(b) All requests for declaratory rulings shall be in writing and addressed to the Executive Director of the Board, at the address set forth on the Board's website.

(b) The issuance of declaratory rulings by the Board is governed by G.S. 150B-4.

21 NCAC 39 .0141 CONTENTS OF THE REQUEST

(a) All requests for a declaratory ruling shall contain the following information:

(1) The name, address, and telephone number of the person making the request;

(2) The statute or rule to which the request relates;

(3) A concise statement of the manner in which the person has been or may be aggrieved, as defined in G.S. 150(B) 2(6), by the statute or rule; and

(4) A statement as to whether a hearing is desired, and if desired, the reason therefore.

21 NCAC 39 .0142 REFUSAL TO ISSUE DECLARATORY RULING

(a) The Board shall refuse to issue a declaratory ruling under the following circumstances:

(1) When the Board has already made a controlling decision on substantially similar facts in a contested case;

(2) When the facts underlying the request for a ruling on a rule were specifically considered at the time of the adoption of the rule in question; and

(3) When the subject matter of the request is involved in pending litigation in North Carolina.

SECTION .0400 – CERTIFICATION BY EXAMINATION

21 NCAC 39 .0405 LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR MILITARY SPOUSE

(a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military-trained applicant, the Board shall issue a license upon the applicant's satisfying the following conditions:

(1) Submit a complete Application for Certification;

~~**(2) Submit a license fee in accordance with G.S. 90A-27;**~~

~~**(2)(3) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and**~~

~~**(3)(4) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed,**~~

(b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license upon the applicant's satisfying the following conditions:

(1) Submit a complete Application for Certification;

~~**(2) Submit a license fee in accordance with G.S. 90A-27;**~~

~~**(2)(3) Submit documentation demonstrating that the applicant is married to an active member of the U.S. military;**~~

~~**(3)(4) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2); and**~~

~~**(4)(5) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.**~~

History Note: Authority: G.S. 90A-74; 93B-15.1

Eff. April 1, 2014.

SECTION .0800 - ONSITE WASTEWATER CONTRACTOR OR INSPECTORS CODE OF ETHICS

21 NCAC 39 .0802 COOPERATION WITH BOARD INQUIRY

A certificate holder shall provide full cooperation in connection with any inquiry made by the Board. Full cooperation includes responding within 21 days to all inquiries of the Board or representatives of the Board and claiming Board correspondence from the U.S. Postal Service, private delivery service, or personal delivery.

21 NCAC 39 .0803 OUTSOURCING TO THIRD-PARTY SERVICE PROVIDERS

(a) A certificate holder shall provide a written disclosure in advance of the outsourcing to the client that he or she is using a third-party provider to assist the certificate holder in providing any professional services to the client.

(b) A certificate holder outsourcing professional services to a third-party provider shall be responsible for ensuring a third-party provider is in compliance with all rules in 21 NCAC 39.

21 NCAC 39 .0804 EXPIRATION OF INSPECTION REPORTS

An inspection report expires on the date and time that it is published, and it is current in what it addresses at the moment of the inspection. A report is written in past tense and regards only what was seen at the time that it was observed.

SECTION .1000 - NC ON-SITE WASTEWATER INSPECTOR STANDARDS OF PRACTICE

21 NCAC 39 .1005 ON-SITE WASTEWATER SYSTEM COMPONENTS

- (a) When inspecting an on-site wastewater system the inspector shall inspect and describe:
- (1) Any part of the system located more than five feet from the primary structure that is part of the operations permit;
 - (2) Septic tanks;
 - (3) Pump tanks;
 - (4) Distribution devices;
 - (5) Dispersal fields;
 - (6) Treatment units;
 - (7) Control panels;
 - (8) Any other components required as part of on-site wastewater system permit, including drainage; and
 - (9) Any vegetation and grading with respect only to their effect on the condition of the system or system components.
- (b) The inspector shall:
- (1) Uncover tank lids and distribution devices so as to gain access, unless blocked as described in Rule .1004(b)(5) of this Section. The distribution box may remain covered if the inspector has an alternate method of observing its condition;
 - (2) Probe system components where deterioration is suspected;
 - (3) Report the methods used to inspect the on-site wastewater system;
 - (4) Open readily accessible and readily openable components; and
 - (5) Report signs of abnormal or harmful water entry into or out of the system or components.
 - (6) Conduct the inspection using the rules in effect at the time of the initial construction or renovation of the system, and any subsequent installation or replacement of any system or component of the system.**
- (c) The inspector is not required to:
- (1) Conduct dosing volume calculations;
 - (2) Evaluate soil conditions beyond saturation or ponding;
 - (3) Evaluate for the presence or condition of buried fuel storage tanks;
 - (4) Evaluate the system for proper sizing, design, or use of proper materials; or
 - (5) Perform a hydraulic load test on the system.

History Note: Authority G.S. 90A-72; 90A-74; Eff. October 1, 2011; Amended Eff. January 1, 2013