

NCOWCICB
BOARD MEETING MINUTES
December 14, 2018 8:45 a.m.
LOCATION: Hilton Garden Inn Raleigh Durham Airport
1500 RDU Center Drive Morrisville NC 27560

- 8:45 a.m. CALL TO ORDER: Russ Davis
OPENING PRAYER: Jerry Pearce
ROLL CALL: all present
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.
Read by Russ Davis, Diana Rashash and Jerry Pearce will recuse themselves on NCSU and NCSTA class request respectively
- Welcome to new Board members Chris Dobbins (replacing Adam Waters) and Michael Robinson (replacing Mark Brooks)
Russ Davis welcomed the new Board members. Plaques have been ordered for Russ to present to Mark Brooks and Adam Waters for their service to the Board
Chris and Mike introduced themselves and gave background info to the Board
Anna Choi briefed Chris and Mike on the hearing process
- Motion to go into hearing proceedings Jerry Pearce, second Russ Ayers, approved
- 9:00 a.m. Board shall begin proceedings with hearing regarding Complaint File Number 361801
Present for hearing all Board members, Anna Choi, Counsel for Board, Connie Stephens, Executive Director NCOWCICB witness, Lyn Bodenheimer, Court recorder
Mike Cheek not present for hearing,
- 10:30 a.m. Board shall enter into closed session to review hearing proceedings and make decision on complaint
- 11:00 a.m. Board shall enter into regular scheduled meeting
Motion to enter regular meeting Russ Ayers, 2nd Chris Dobbins, approved
Decision from hearing: Russ Ayers motion to revoke, 2nd David Swinney, discussion held, approved
- 11:00 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.

Public in attendance at meeting: Doug Lassiter, NCSTA

11:05 a.m. Approval of Minutes from May 11, 2018 meeting (see minutes attached)
Motion to approved with corrections to grammar Diana Rashash, 2nd David Swinney, approved

- 11:10 a.m. Update from Administrator:
- The annual audit for fiscal year ending June 30, 2018 has been completed and all is well
 - Renewals received to date are slightly ahead of last year
 - As stated at last meeting, applications for new certifications have been increasing and it looks like this trend will continue into 2019
 - Year end is quickly approaching, REMEMBER to file your SEI. Every Board member must file and the absolute deadline for filing is April 15, 2019. You can file early so mark your calendars and file in January. The majority of you will be able to use the short form. For filing info go to:
<https://ethics.ncsbe.gov/sei/blankForm.aspx>
 - 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 <https://www.ncsbe.gov/Ethics/Education>
 - The following is what the Ethics Commission records show regarding the Board member's Ethics Training as of 12/11/18:

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
Michael Robinson	11/14/18	11/14/20
Walter James	12/11/18	12/11/20
Chris Dobbins		2/10/19
David Swinney	2/20/18	2/20/20
Connie Stephens(EL)	4/14/17	4/14/19

Anna Choi presented 93B training to Board

- Class Approval Request:
The decision by the Board at the May meeting to limit the attendees for the 18 hour introductory and the new Inspector class to maximum of 30 was a good decision and is working well

Approval Request:

NCSU: Approval request for reapproval for all courses offered in 2018

Approval request for Onsite Conference

Motion to approve David Swinney, 2nd Jerry Pearce, approved

NCSTA: Approval request for reapproval for all courses offered in 2018

Approval request for 29th Annual Convention & Expo

Reapproval request for Hands on Training Courses

Motion to approve: Glenn Hines, 2nd Russ Ayers, approved

Granville Vance: Approval request for reapproval for course offered in 2018

Motion to approve: David Swinney, 2nd Diana Rashash, approved

NCSSS: Approval request for reapproval for course offered in 2018

Motion to approved: David Swinney, 2nd Diana Rashash, approved

Jackson County: Approval request for reapproval for course offered in 2018

Motion to approved: David Swinney, 2nd Diana Rashash, approved

Johnston County: Approval request for reapproval for course offered in 2018

Motion to approved: David Swinney, 2nd Diana Rashash, approved

Chatham County: Approval request for reapproval for course offered in 2018

Motion to approved: David Swinney, 2nd Diana Rashash, approved

Caldwell County: Approval request for reapproval for course offered in 2018

Motion to approved: David Swinney, 2nd Diana Rashash, approved

Orenco: Approval request for c/e class on control panels. The agenda does not meet the minimum requirements set forth by the Board. This course would be better suited in being integrated within a class given by a provider that includes the minimums

Motion to deny: David Swinney, 2nd Walter James, denied

Discussion was held regarding local health departments holding classes. Complaints have been received from installers that the health departments are closing down for the day and the departments are behind several weeks on issuing permits therefore they shouldn't shut down for the day. Concerns also voiced about the health department classes not teaching to state rules since this is a state issued certification and not just local.

Motion by Russ Ayers when approval is issued to health department for class add an additional requirement/notice that they must teach state rules and that while NCOWCICB cannot control their office schedules to protect the public safety and not have interruption of business that the health department not be closed during the class day. 2nd Walter James, approved

- Proposed Rules Revisions: At the meeting in May the Board reviewed and approved proposed rules revisions. These revisions had not been reviewed by RRC prior to the Board review. The proposed rules were presented to RRC and they had several comments and questions regarding the revisions. Due to these questions and comments the proposed rules were not sent forward through the rules approval process. The proposed rules revisions have been rewritten with the suggestions of RRC and are attached for Board review and approval to submit for the approval process. The majority of their questions and comments had more to do with wording than content and there was a rule change that we had proposed due to a General Statute change that we do not have to change because the General Statute will supersede the rule.

Motion to rescind May 11, 2018 approval and approve revised proposed rules attached: Jerry Pearce, 2nd Chris Dobbins, approved

11:40 a.m. Treasurer's Report by Jerry Pearce, Treasurer
Financial Report as of November 30, 2018

Monies on hand:	
Capital Bank Operating Account	\$178,774.67
Select Bank*	\$239,285.32
Bank of Oak Ridge*	\$232,555.45
Sound Bank*	\$210,035.41
North State Bank*	\$229,356.77
New Bridge Bank*	<u>\$203,839.91</u>
Total Monies on hand	\$1,293,847.53

(*CD held for future enforcement)

See detailed YTD Financial Report Attached

Motion to accept: Walter James, 2nd Chris Dobbins, approved

11:45 a.m. Board shall enter Closed Session for discussion of complaints received
Motion to enter closed session: Glenn Hines, 2nd Walter James, approved

12:15 p.m. Board shall re-enter regular session
Motion to re-enter regular session : Walter James, 2nd David Swinney, approved

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

Complaint 01111801: Inspection without certification, motion to seek injunction David Swinney, 2nd Jerry Pearce, approved

Complaint 6281801: Installation of repair without permit, first offense, motion to send letter advising must have permit, first offense, Jerry Pearce, 2nd Walter James, approved

Complaint 05291801: Installation of repair without permit, first offense, motion to send letter advising must have permit, first offense, once formal complaint has been received from LEH we only have emails from LEH and they have not yet submitted formal complaint, Jerry Pearce, 2nd Walter James, approved

Complaint number 011071801: Inspection not meeting minimum requirements, after discussion of complaint Diana Rashash recused herself from further discussion and voting. Motion to revoke inspector certification, Russ Ayers, 2nd David Swinney, approved

12:30 p.m. Update from Counsel Anna Choi
Brief update from counsel on legislation

12:45 p.m. Next Scheduled Board Meeting: May 10, 2019 9 a.m. in Raleigh, keep in mind the Board meetings have been set as second Friday in May and December.

Officers Elections: David Swinney made motion to keep the officer slate as is with Russ Davis, Chairman, Russ Ayers Vice Chairman, Jerry Pearce Treasurer, 2nd Walter James, approved

12:45 p.m. Meeting Adjourn motion to adjourn Russ Ayers, 2nd Chris Dobbins

NCOWCICB Financial Report as of November 30, 2018

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YTD Receipts**

Fees Received	\$156,867
Interest Income	<u>\$ 3,017</u>
Total Receipts	\$159,884

YTD Expenditures**

Postage	\$ 1,072
Printing	\$ 6,261
Travel – Board	\$ 0
Travel – Staff	\$ 1,755
Telephone	\$ 1,408
Misc Expense	\$ 348
Bank Charges	\$ 112
Accounting	\$ 16,125
Salaries	\$ 30,335
Payroll Taxes	\$ 2,373
Office Expense	\$ 1,575
Depreciation	\$ 256
Office Rent	\$ 2,500
Investigations	\$ 813
Hearing Expense	\$ 0
Meeting Expense	\$ 0

Web Expense	\$ 175
Legal Fees	\$ 4,428
Total Expenditures	\$ 69,536

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

21 NCAC 39 .0103 is proposed for adoption as follows:

21 NCAC 39 .0103 ANNUAL REPORTS

(a) On or before October 31 of each year, the Board shall prepare and file reports required pursuant to G.S. 93B-2. The Board shall file reports in the manner requested by receiving agency or committee.

(b) The Board shall maintain an escrow account at the financial institution used regularly for deposits and checks. Fees tendered during a period of suspension under G.S. 93B-2(d) shall be deposited into this escrow account.

*History Note: Authority G.S. 93B-2;
Eff. July 1, 2019.*

21 NCAC 39 .0803 is proposed for adoption as follows:

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

(a) If a certificate holder delegates service requested by a client to another certificate holder, he or she must give notice to the client on or before the date of service that said work is being delegated to another certificate holder.

(b) The certificate holder who delegates service as indicated above shall be jointly and severably responsible for all aspects of the service provided to the client.

*History Note: Authority G.S. 90A-74(6);
Eff. July 1, 2019.*

21 NCAC 39 .0802 is proposed for adoption as follows:

21 NCAC 39 .0802 COOPERATION WITH BOARD INQUIRY

A certificate holder shall respond to any inquiry made by the Board within 21 days from the date the inquiry was received by the certificate holder.

*History Note: Authority G.S. 90A-74(6)
Eff. July 1, 2019.*

21 NCAC 39 .0901 is proposed for adoption as follows:

21 NCAC 39 .0901 PETITION FOR RULE-MAKING

Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the Chairman at the Board office as follows: Post Office Box 132, Lawsonville, North Carolina 27022.

- (1) The petition shall contain the following:
 - (a) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
 - (b) a statement of the effect of the requested rule change; and
 - (c) the name and address of the petitioner.
- (2) The petition may contain the following:
 - (a) the reason for the proposal;
 - (b) the effect of the new rule on existing rules; or
 - (c) any data supporting the rule proposal.

*History Note: Authority G.S. 150B-20; 90A-74
Eff. July 1, 2019*

21 NCAC 39 .0902 is proposed for adoption as follows:

21 NCAC 39 .0902 REQUEST FOR DECLARATORY RULING

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; and
- (3) a statement describing the manner in which the person has been or may be aggrieved by the statute or rule.

If a hearing is desired, the request shall so state and shall include the reason a hearing is desired.

*History Note: Authority G.S. 150B-4(a); 90A-74.
Eff. July 1, 2019*

21 NCAC 39 .0903 is proposed for adoption as follows:

21 NCAC 39 .0903 REFUSAL TO ISSUE DECLARATORY RULING

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

- (1) when the Board has issued a decision in a contested case with substantially similar facts;
- (2) when the facts underlying the request for a ruling on a rule were considered at the time of the adoption of the rule in question; or
- (3) when the subject matter of the request is involved in pending litigation in North Carolina.

*History Note: Authority G.S. 150B-4; 90A-74.
Eff. July 1, 2019.*

21 NCAC 39 .1005 is proposed for amendment as follows:

21 NCAC 39 .1005 ON-SITE WASTEWATER SYSTEM COMPONENTS

(a) When inspecting an on-site wastewater system the inspector shall inspect and describe the following in a report described in Rule .1002 of this Chapter:

- (1) ~~Any~~ any part of the system located more than five feet from the primary structure that is part of the operations permit;
- (2) ~~Septic~~ septic tanks;

- (3) ~~Pump~~ pump tanks;
 - (4) ~~Distribution~~ distribution devices;
 - (5) ~~Dispersal~~ dispersal fields;
 - (6) ~~Treatment~~ treatment units;
 - (7) ~~Control~~ control panels;
 - (8) ~~Any~~ any other components required as part of on-site wastewater system permit, including drainage; and
 - (9) ~~Any~~ 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~~ 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~~ probe system components where deterioration is suspected;
 - (3) ~~Report~~ report the methods used to inspect the on-site wastewater system;
 - (4) ~~Open~~ open readily accessible and readily openable components as defined in Rule .1001 of this Chapter; and
 - (5) ~~Report~~ report signs of abnormal or harmful water entry into or out of the system or ~~components.~~ components; and
 - (6) conduct the inspection using the rules promulgated under Art. 11 of Chapter 130A in effect at the time of the initial construction or renovation of the system, whichever occurs later, and any subsequent installation or replacement of any system or component of the system.
- (c) The inspector ~~is~~ shall not be required to:
- (1) ~~Conduct~~ conduct dosing volume calculations;
 - (2) ~~Evaluate~~ evaluate soil conditions beyond saturation or ponding;
 - (3) ~~Evaluate~~ evaluate for the presence or condition of buried fuel storage tanks;
 - (4) ~~Evaluate~~ evaluate the system for proper sizing, design, or use of ~~proper~~ approved materials pursuant to Art. 11 of Chapter 130A and the rules promulgated therefrom; or
 - (5) ~~Perform~~ 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; July 1, 2019;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*