

**MINUTES**  
**Regulatory Council Meeting for**  
**Community Association Managers**  
**Telephone Conference Call**  
**February 18, 2005, 10:30 a.m.**

**Council Members Present**

Reginald Billups, Chair  
Chris Brown, Vice Chair  
Steven Czonstka  
Edith Yates  
Debra Glass

**Absent**

Marilyn Battista, resigned

**Others Present**

Jerry Wilson, Deputy Director  
Anthony B. Spivey, Executive Director  
Donna Salters, Government Analyst  
Barbara Edwards, Assistant Attorney General  
Brian Higgins, Prosecuting Attorney  
Mike Martinez, Special Counsel to the Secretary  
Jean Whitten, Budget Director  
Molley Foley-Healey, CAI

The meeting was called to order at 10:45 a.m. There was a roll call and a quorum was established.

Mr. Billups introduced Anthony (Tony) Spivey, as the new Executive Director for the Council.

Mr. Brown moved to accept the minutes from the October 8, 2005 meeting. The motion was seconded by Ms. Glass and passed unanimously. The minutes from the October 8, 2004 meeting were approved with the following changes. First correction on page 3, the sentence should read "*Mr. Czonstka stated that the Council should **not** punish the majority of the CAMs for the few that abuse the system.*" The second correction was cited on page 4, first paragraph. The word "**unanimously**" should be deleted. The sentence should read, "*The motion that there is no distinction made between continuing education hours made by classroom and those made by correspondence passed 3 to 2.*"

The motion to approve the minutes from the October 8, 2004 Rule Development Workshop Rule 61-20.508, F.A.C. was moved by Mr. Brown and seconded by Mr. Czonstka. The motion passed unanimously.

Ms. Battista's resignation was again acknowledged; however there is no confirmation from the Governor's Appointment Office on its acceptance.

Although there was no quorum for the January 21, 2005 meeting, the minutes reflecting such was adopted. The motion was made by Mr. Brown and seconded by Ms. Glass. The motion passed unanimously.

**Chair Report**

Mr. Billups reported that Ms. Battista's resignation has been acknowledged by the Council; however there is no confirmation from the Governor's Appointment Office on its acceptance. A motion was made by Mr. Brown to honor Ms. Battista service to the Council with a plaque. The motion was seconded by Ms. Yates and passed unanimously.

**Board Council Report**

Ms. Edwards reported that she had received a letter from Ms. Printy, Esquire, Chief Attorney for the Joint Administrative Procedures Committee (JAPC) regarding the proposed amendment to Rule 61-20.508, F.A.C. The Rule currently indicates that of the 20 hours requirement, a maximum of eight can be completed by correspondence, interactive, distance education and/or Internet courses. She

explained that Ms. Printy read the rule as if the Council was eliminating the approval of distant education. Ms. Printy had requested that the Rule be written more clearly regarding the inclusion of non-traditional classroom education. The Rule will include continuing education (CE) classroom, correspondence, distant education, and internet courses. Ms. Edwards reported that she had already received an inquiry asking if the language included video teleconferences. She stated she declined to provide an interpretation for the rule as it is not in place yet. Mr. Czonstka asked that if the rule was in place, what could be the response. She stated that she would interpret video teleconference as inclusive.

Mr. Czonstka moved that the following language for changes to Rule 61-20.508 F.A.C. be adopted.

(1) All community association manager licensees must satisfactorily complete a minimum of 20 hours of continuing education. Each hour shall consist of 50 minutes of student involvement in approved classroom, correspondence, interactive, distance education or internet courses, which courses shall include the required hours at an approved update seminar. No license shall be renewed unless the licensee has completed the required continuing education during the preceding licensing period.

The motion was seconded by Mr. Brown. Mr. Billups commented that he was concerned about the possibility of having to constantly amend the Rule if other methods of achieving CE needs to be added.

Ms. Edwards suggested that the language of Rule 61-20.508 F.A.C be adjusted to read“

(1) All community association manager licensees must satisfactorily complete a minimum of 20 hours of continuing education. Each hour shall consist of 50 minutes of student involvement in approved courses including, but not limited to those conducted in a traditional classroom setting by correspondence, interactive, distance education or internet courses, which courses shall include the required hours at an approved update seminar. No license shall be renewed unless the licensee has completed the required continuing education during the preceding licensing period.

Mr. Billups explained that by using the “but not limited to” the Council does not have to go back and change if some other method comes about which is approved. Ms. Edwards explained that there may be an objection in that it might give the Council unlimited discretion in determining what can be included. She suggested that the Council approve both of the draft changes to submit to Ms. Printy. And only the changes that are approved by Ms. Printy will be noticed.

Mr. Czonstka amended the motion to submit both sets of draft language to Ms. Printy and approve the one that satisfy Ms. Printy’s requirements.

Ms. Glass had concerns regarding the matter of “unlimited discretion”. She explained that it is the Council’s role to approve verbiage and disagrees with the matter regarding objections to unlimited discretion.

Mr. Spivey explained that the use of the term “unbridled authority” meant that if the Council has the discretion to make rules as they go, it may not be fair to future licensees as there may be different decisions placed on them that may set precedence. Ms. Edwards added that it is a standard which allow the rule to be attacked as providently adopted -after the fact- if it contains unbridled discretion.

Mr. Brown seconded the motion to amend and submit both sets of language. The motion passed unanimously.

It was further noted that the Council gave Ms. Edwards the authority to negotiate the language as needed to get it passed through JAPC.

Ms Edwards reported that JAPC stated that regarding Rule 60-20.0025, F.A.C. Exemptions of Spouses of Members of Armed Forces from License Renewal Provisions, there is no reference in the statutory authority to limit the exemptions to provision *under the rules*. Therefore the words "***under these rules***" should be eliminated from the language. Mr. Czonstka motioned to accept the changes to Rule 60-20.0025, F.A.C. It was seconded by Ms. Glass and the motion passed unanimously.

Ms. Edwards presented changes to Rule 61-20.003, F.A.C, Business Entity Registration. She explained that all references before October 1, 1988 are no longer needed. She indicated that in making the change, JAPC may decide that there are other things that are not acceptable regarding that Rule and if so, then there must be a response to it, and since the penalty is so strict it would be wise to leave the Rule as it is.

A motion was offered by Mr. Brown to not make any changes to Rule 60-20.0025, F.A.C. The motion was passed unanimously.

Ms. Edwards will be forwarding a letter to Mr. Heller regarding his question concerning the inclusion of video conferencing as an approved means for completing CE requirement for CAM renewals.

#### **Executive Directors Report**

Mr. Spivey presented the financial reports for September 30, 2004 and 2003. He also presented a letter that was forwarded to the Council from CAM applicant Heather Sutton. Ms. Sutton's letter expressed concerns regarding the test being a "scam" and "tricky" as well as had concerns about the costs, time and travel often required to take the pre-licensure education course.

Ms. Malone Garofalo responded to Ms. Sutton on behalf of the Council in a letter indicating that over 80% of exam candidates pass the test the first time. The letter further explained that to maintain the security and confidentiality of the exam, candidates may not remove examination materials or allowed to make copies after an examination review.

Mr. Spivey will be organizing an advance schedule for Council meetings for fiscal year 2005-2006.

#### **Old Business**

At the October 8, 2004 meeting, Ms. Foley Healey, Vice President of Government in Public Affairs and General Council for Community Association's Institute (CAI) and Mr. Travis Moore, Advocate for CAI representatives for the National Board of Certification of CAM (aka as NBCCAM) addressed the Council concerning the Management Privatization Act which creates the ability for Councils, Boards, and Commissions to take a look at privatizing. They suggested that it is time for the CAM Council to look at taking the preliminary step in developing a business case beginning first with a needs assessment and completing a feasibility study.

Also at that meeting Mr. Mike Martinez, Special Council to Secretary Carr, explained that the Privatization Act was created to provide a uniform system of evaluation which would allow the Council to make decisions about whether privatization is best for their profession. He explained that it is a common assumption that when a board is privatized it automatically is less costly; however, in some cases costs increase. He stated that the department would be cooperative with the Council. It was a shared concern among the Council regarding costs.

Mr. Martinez presented documents as requested from the October 8<sup>th</sup>, 2004 meeting. The documents provided information on what the process is and what the costs would be from the department's stand point and that it would not have any affect on the Councils' financial situation.

Mr. Billups stated that the Council has concerns about the cost of the feasibility study to privatize. Mr. Martinez explained that neither the department nor the Council has the financial authority to pay for the feasibility study. He explained that entities that are interested in the privatization of the CAM profession would also be the providers of the resources required to complete the business case.

Mr. Czonstka expressed concerns of there being a conflict of interest. Ms. Foley-Healy responded explaining what the business case includes. She explained that the business case would first include the financial structure of the Council of which the department has provided. Secondly, the strategic planning portion which focuses on goals of the CAM license and how those goals will be met under the current scheme as well as under a privatized scheme. And, if the Council wants to move forward with privatizing they would work with the privatizing entity to prepare a model of how the goals of the profession will be accomplished within the confines of the statutes.

Ms. Foley-Healy explained that CAI already has a skeleton for the privatization process and all that is needed is for the Council to finish the financial aspect and complete the goals portion to avoid the issue of conflict of interest.

Ms. Yates stated the Council would need to do their own goal setting and rough out the request for proposal that entities should respond to. She was concerned with conflict of interest if this portion is outsourced to an entity that is going to also pursue the privatizing contract.

Ms. Yates asked if the Council can set aside funds to complete the financial aspect and goals portion of the study. Ms. Whitten, Budget and Finance Director for the department explained that there is no state funding available to do these studies. She further explained that generally it is the associations that commissioned these studies not the state. Mr. Czonstka asked would not this be the very body that would be considered to operate the privatizing entity after the fact. Mr. Martinez explained that whatever study is put together will be reviewed and analyzed by the Executive Office of the Governor which acts as a gatekeeper to concerns of conflicts of interest.

Ms. Foley-Healy offered to assist in finding funds through their sister company the National Board of Certification for Community Associations Managers. She suggested the Council direct the study and CAI would provide funds for consultants to assist. Mr. Billups shared that he would be more comfortable with an independent third party providing funds plus the Council does not have a concept of the real cost.

Mr. Moore added that he is familiar with CAM associations, and expressed concerns about associations having the financial resources available to these studies. Ms. Foley-Healey stated that she could communicate with other sponsors of community associations in Florida and see if they are willing to be responsible for the cost associated with accomplishing the study.

Mr. Czonstka suggested that to prevent the conflict of interest problem, there should be an avenue by which several organizations can contribute funds to hire an independent consultant. Mr. Billups entertained the motion to authorize CAI through Ms. Foley-Healey to contact other associations in a fund gathering effort for the study. A motion was offered by Mr. Brown and seconded by Mr. Czonstka.

In further discussion, Mr. Czonstka asked if there are strategic goals documents that already exist within the department that can be modified to begin the process for the privatization study. At the request of Mr. Billups, Mr. Spivey will check with other boards regarding existing strategic goals documents. Mr. Czonstka suggested the establishment of a subcommittee to help the Council move forward with the development of goals document and work with other existing costs data to put together and determine what is required. Mr. Czonstka will head the subcommittee and it is up to him to develop the committee.

The motion to authorize CAI to develop a group that would be interested in funding the study was passed unanimously. Ms. Foley-Healy is to communicate directly with Mr. Czonstka and keep Mr. Spivey updated. Mr. Czonstka will remain a committee of one to streamline the research until the next meeting.

Ms. Edwards informed the Council that they do not have to limit the subcommittee to one member; however, the meetings would have to be noticed in Florida Administration Weekly and minutes must be recorded.

#### **Complaints & Investigation Report**

The statistics of the complaints and investigative report showed that there are 67 complaints added; 8 were found legally sufficient; 5 unlicensed activity complaints found legally sufficient; 12 investigations were assigned; 42 investigations were completed and 2 citation were filed.

#### **Prosecuting Attorney Report**

Mr. Higgins' report showed that there were 8 cases in legal; 5 administrative complaints filed; 2 cases for stipulations or request for informal hearing; 5 cases pending for informal hearing and 3 supplemental investigations.

#### **New Business**

Ms. Edwards reported on a letter and package received from Mr. Robert Reese regarding a correspondence course he had taken. He explained that he was very dissatisfied with the continuing education correspondence indicating that it was not thought provoking and expressed interest in seeing more challenging information. The complaint will be forwarded over to the Bureau of Education and Test (BET) for review and comment. Mr. Billups stated that the courses were approved by BET. Ms. Edwards is to respond to Mr. Reese on behalf of the Council.

#### **Next Meeting**

The next meeting will be held on Friday, May 6, 2005, 10:30 a.m. by telephone conference call.