

Charles W. Drago, Secretary

Charlie Crist, Governor

CONSTRUCTION INDUSTRY LICENSING BOARD

GENERAL SESSION MINUTES

HILTON OCALA
3600 SW 36TH AVENUE
OCALA, FLORIDA 34474

AUGUST 11 – 14, 2009
PENDING APPROVAL

I. EXAMS/CE/PUBLIC AWARENESS COMMITTEE – AUGUST 11, 2009

The Exams/CE/Public Awareness Committee met via telephone conference call on August 11, 2009. James Flaherty, committee chair, called the meeting to order at 10:02am.

MEMBERS PRESENT

Doris "Peggy" Bailey
Elbert Batton
Frank Bonuso
James Evetts
James Flaherty
Raymond Holloway

MEMBERS ABSENT

Edward Weller

OTHERS PRESENT

G.W. Harrell, Executive Director
Andy D. Janecek, Government Analyst II
Daniel Biggins, Board Counsel, OAG

The committee chair shall present a verbal report detailing the recommendations of the committee for ratification by the full board on August 14, 2009. The recommendations of the committee are included in the attached minutes. The meeting was adjourned at 12:27pm.

II. PROBABLE CAUSE PANEL TRAINING – AUGUST 12, 2009

Jeff Kelly, Chief Prosecuting Attorney, provided a training session to the board members to familiarize them with the department's new OnBase software. Mr. Kelly explained that in the future, board members will log-in to a secured website to view probable cause panel materials. The training began at 11:00am and ended at 12:32pm.

III. ADDITIONAL BUSINESS ENTITIES – AUGUST 12, 2009

The Division I Additional Business Entities meeting was called to order by Jerry Hussey, agenda leader, at 1:06pm.

MEMBERS PRESENT

Elbert Batton
Paul Del Vecchio

MEMBERS ABSENT

Frank Bonuso
Michelle Kane

James Evetts
Jerry Hussey
William Sheehan
Don Wilford

OTHERS PRESENT

G.W. Harrell, Executive Director
Andy D. Janecek, Government Analyst II
Amanda Abbott, Government Analyst I
Daniel Biggins, Board Counsel, OAG
Carrol Cherry, Board Counsel, OAG
Court Reporter

The determinations of the Division I board members are included in the attached minutes. The meeting was adjourned at 2:53pm.

The Division II Additional Business Entities meeting was called to order by Robert Moody, agenda leader, at 1:06pm.

MEMBERS PRESENT

Doris "Peggy" Bailey
James Flaherty
Raymond Holloway
Robert Moody
Mark Pietanza
Jacqueline Watts

MEMBERS ABSENT

Carl Engelmeier
Roy Lenois
Edward Weller

OTHERS PRESENT

G.W. Harrell, Executive Director
Andy D. Janecek, Government Analyst II
Amanda Abbott, Government Analyst I
Daniel Biggins, Board Counsel, OAG
Carrol Cherry, Board Counsel, OAG
Court Reporter

The determinations of the Division II board members are included in the attached minutes. The meeting was adjourned at 2:53pm.

IV. RULES/PUBLIC/LEGISLATIVE COMMITTEE – AUGUST 12, 2009

The Rules/Public/Legislative Committee meeting was called to order by Mark Pietanza, committee chair, at 4:07pm.

MEMBERS PRESENT

Paul Del Vecchio
Carl Engelmeier
James Flaherty
Mark Pietanza
Jacqueline Watts

MEMBERS ABSENT

Roy Lenois

OTHERS PRESENT

G.W. Harrell, Executive Director

Andy D. Janecek, Government Analyst II
Amanda Abbott, Government Analyst I
Daniel Biggins, Board Counsel, OAG
Carrol Cherry, Board Counsel, OAG
Jeff Kelly, Chief Prosecuting Attorney
Pooja Patel, Prosecuting Attorney

Mr. Biggins presented the rules report from the July, 2009 board meeting and explained that the four rules included on the report require no action at this time. He further explained that development of these rules is tabled while the Department finalizes rules adopting their application forms. Mr. Biggins explained that we have received numerous letters from the JAPC regarding these rules and that he would send a response.

Mr. Harrell explained that the Department will need an additional four to five months to complete their review of application forms. He explained that the board office is waiting to receive the revised forms from the Department's Office of Inspector General.

Mr. Harrell advised that the agenda item regarding establishing a penalty guideline for the use of Chinese drywall had been pulled.

Mr. Harrell proposed that the board waive the mandatory board meeting appearance requirement for additional business applicants that own at least 50% of each business entity being qualified. After some discussion, the committee voted unanimously to direct Mr. Biggins to prepare a revised draft of Rule 61G4-15.0021(6), Florida Administrative Code, as discussed, for review at the next board meeting.

Mr. Harrell also proposed a revision to Rule 61G4-15.0022(2)(e), FAC, to extend the time in which a joint venture must be properly qualified upon being awarded a contract. He suggested that the time be extended from 60 to 90 days to allow sufficient time for the joint venture to complete the application process. After some discussion, the committee voted unanimously to direct Mr. Biggins to prepare a revised draft of the rule, as discussed, for review at the next board meeting.

The committee chair shall present a verbal report detailing the recommendations of the committee for ratification by the full board on August 14, 2009. The meeting was adjourned at 4:31pm.

V. AD HOC COMMITTEE – AUGUST 12, 2009

The Ad Hoc Committee meeting was called to order by Jacqueline Watts, committee chair, at 4:34pm.

MEMBERS PRESENT

Paul Del Vecchio
Carl Engelmeier
James Flaherty
Raymond Holloway
Jacqueline Watts

MEMBERS ABSENT

Michelle Kane
Roy Lenois
Don Wilford

OTHERS PRESENT

G.W. Harrell, Executive Director
Andy D. Janecek, Government Analyst II
Amanda Abbott, Government Analyst I
Daniel Biggins, Board Counsel, OAG
Carrol Cherry, Board Counsel, OAG
Jeff Kelly, Chief Prosecuting Attorney
Pooja Patel, Prosecuting Attorney

Ms. Watts informed the committee that members of the swimming pool and spa industry have requested that the proposed pre-licensure education concept include reduced requirements for swimming pool servicing contractors. The board reviewed letters submitted by FSPA and Pinch-A-Penny and received testimony from Jennifer Hatfield, FSPA, as well as other swimming pool servicing contractors in the audience. By unanimous vote, the committee voted to amend the proposed pre-licensure education concept to require "a 60-hour pre-licensure education program as well as a 60-hour hands-on, interactive, in-person demonstration, in lieu of the 180-hour pre-licensure education program."

Ms. Watts explained that she would work with Mr. Harrell to prepare an updated draft for distribution at a future board meeting.

R. Bruce Kershner, speaking for the Construction Coalition, informed the committee that the coalition had concern about the language in the proposed pre-licensure education concept regarding out-of-state contractors. Mr. Kershner explained that the scopes of work associated with each license type can vary from state to state. The board, by unanimous vote, agreed that the language in option 4 should be expanded. Mr. Kershner informed the board that members of the Construction Coalition would be present at the October, 2009 board meeting to present proposed language.

The committee chair shall present a verbal report detailing the recommendations of the committee for ratification by the full board on August 14, 2009. The meeting was adjourned at 5:00pm.

VI. APPLICATION REVIEW – AUGUST 13, 2009

The Division I Application Review meeting was called to order by William Sheehan, alternate agenda leader, at 3:18pm.

MEMBERS PRESENT

Elbert Batton
Paul Del Vecchio
James Evetts
Jerry Hussey
William Sheehan
Don Wilford

MEMBERS ABSENT

Frank Bonuso
Michelle Kane

OTHERS PRESENT

G.W. Harrell, Executive Director
Andy D. Janecek, Government Analyst II

Amanda Abbott, Government Analyst I
Daniel Biggins, Board Counsel, OAG
Carrol Cherry, Board Counsel, OAG
Court Reporter

The determinations of the Division I board members are included in the attached minutes. The meeting was adjourned at 4:50pm.

The Division II Application Review meeting was called to order by Jacqueline Watts, alternate agenda leader, at 5:45pm.

MEMBERS PRESENT

Doris "Peggy" Bailey
Carl Engelmeier
James Flaherty
Raymond Holloway
Robert Moody
Mark Pietanza
Jacqueline Watts

MEMBERS ABSENT

Roy Lenois
Edward Weller

OTHERS PRESENT

G.W. Harrell, Executive Director
Andy D. Janeczek, Government Analyst II
Amanda Abbott, Government Analyst I
Daniel Biggins, Board Counsel, OAG
Carrol Cherry, Board Counsel, OAG
Court Reporter

The determinations of the Division II board members are included in the attached minutes. The meeting was adjourned at 7:00pm.

VII. PROBATION – AUGUST 13, 2009

The Division I Probation meeting was called to order by James Evetts, agenda leader, at 5:45pm.

MEMBERS PRESENT

Elbert Batton
Paul Del Vecchio
James Evetts
Jerry Hussey
William Sheehan
Don Wilford

MEMBERS ABSENT

Frank Bonuso
Michelle Kane

OTHERS PRESENT

Amanda Abbott, Government Analyst I
Carrol Cherry, Board Counsel, OAG
Court Reporter

The determinations of the Division I board members are included in the attached minutes. The meeting was adjourned at 6:15pm.

The Division I & II Probation meeting was called to order by Carl Engelmeier, Division II agenda leader, at 5:30pm.

MEMBERS PRESENT

Doris "Peggy" Bailey
Elbert Batton
Paul Del Vecchio
Carl Engelmeier
James Evetts
James Flaherty
Raymond Holloway
Jerry Hussey
Robert Moody
Mark Pietanza
William Sheehan
Jacqueline Watts
Don Wilford

MEMBERS ABSENT

Frank Bonuso
Michelle Kane
Roy Lenois
Edward Weller

OTHERS PRESENT

Amanda Abbott, Government Analyst I
Carrol Cherry, Board Counsel, OAG

The determinations of the Division I & II board members are included in the attached minutes. The meeting was adjourned at 5:45pm.

The Division II Probation meeting was called to order by Carl Engelmeier, agenda leader, at 3:15pm.

MEMBERS PRESENT

Doris "Peggy" Bailey
Carl Engelmeier
James Flaherty
Raymond Holloway
Robert Moody
Mark Pietanza
Jacqueline Watts

MEMBERS ABSENT

Roy Lenois
Edward Weller

OTHERS PRESENT

Amanda Abbott, Government Analyst I
Carrol Cherry, Board Counsel, OAG

The determinations of the Division II board members are included in the attached minutes. The meeting was adjourned at 4:41pm.

VIII. GENERAL SESSION – AUGUST 14, 2009

The meeting was called to order by Jacqueline Watts, board chair, at 8:30am.

MEMBERS PRESENT

Doris "Peggy" Bailey
Elbert Batton
Paul Del Vecchio

MEMBERS ABSENT

Frank Bonuso
Michelle Kane
Roy Lenois

Carl Engelmeier
James Evetts
James Flaherty
Raymond Holloway
Jerry Hussey
Robert Moody
Mark Pietanza
William Sheehan
Jacqueline Watts
Don Wilford

Edward Weller

OTHERS PRESENT

G.W. Harrell, Executive Director
Andy D. Janecek, Government Analyst II
Amanda Abbott, Government Analyst I
Daniel Biggins, Board Counsel, OAG
Carrol Cherry, Board Counsel, OAG
Jeff Kelly, Chief Prosecuting Attorney
Pooja Patel, Prosecuting Attorney
Court Reporter

Peggy Bailey gave the invocation. Don Wilford led the Pledge of Allegiance.

A. REVIEW OF MINUTES

The board voted unanimously to approve the May, 2009 and June, 2009 Final Action minutes.

B. EXECUTIVE DIRECTOR'S REPORT

Mr. Harrell informed the board that he had forgotten to bring the case statistics but would be sure to present them at next month's meeting. He also explained that Debra Johnson, the new administrative assistant in the board office, would be handling travel reimbursements from now on. Additionally, he thanked the board staff for their work in preparing a full agenda for this month's meeting. Board staff also thanked the board members for meeting the tight schedules on the agenda.

The board voted unanimously to approve the report.

C. CHAIRMAN'S REPORT

Ms. Watts asked the board to excuse the absences of Edward Weller, Michelle Kane, Frank Bonuso, Roy Lenois, Robert Moody and Elbert Batton.

The board voted unanimously to excuse the absences.

D. PROSECUTING ATTORNEY'S REPORT

Mr. Kelly presented the final order/case status report to the board and introduced Pooja Patel, a new prosecuting attorney that works in his office. He further explained to the board that a recent court ruling suggests that board members must clearly state that they

have reviewed the facts in each case while serving on probable cause. He referenced a ruling related to the Department of Health.

The board voted unanimously to approve the report.

E. ATTORNEY GENERAL'S REPORT

Mr. Biggins proceeded to present the cases that are part of his report that require action by the board. The following cases were reviewed.

1. JAMES T. BATTLES – INFORMAL HEARING

Mr. Battles was not present at the hearing.

Mr. Biggins presented the case, stating that Mr. Battles' application for change of status was denied at the February, 2009 meeting of the board. Mr. Battles requested an informal hearing.

After discussion, the board voted unanimously to approve the application.

2. GENE DOWNS – INFORMAL HEARING

Mr. Downs was present at the hearing with his attorney, Bill Furlow, and Pam Blount, owner of the proposed business. Mr. Downs and Ms. Blount were sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Downs' application to qualify an additional business was denied at the April, 2009 meeting of the board. Mr. Downs requested an informal hearing.

After discussion, the board voted unanimously to conditionally approve the application, so long as the applicant paid an assessment in the amount of \$1,000 and completed an additional 14 hours of continuing education, live and in-person, focusing on Chapter 489, F.S., within 30 days. Additionally, the board approved the application with probation for two years.

3. JAMES FLAHERTY – PETITION FOR DECLARATORY STATEMENT

Mr. Flaherty was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Flaherty filed a petition for declaratory statement. In the petition, Mr. Flaherty asked the board to "confirm that a state certified or a state registered plumbing contractor is

permitted to condemn, remove and replace a heating element and thermostat on an electric water heater.”

After discussion, the board voted unanimously to find that Mr. Flaherty had appropriate standing to pose his question. Additionally, the board voted unanimously to answer the petition in the affirmative.

4. ANTONIO HERNANDEZ – INFORMAL HEARING

Mr. Hernandez was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Hernandez’s application for certified plumbing contractor’s license was denied at the April, 2009 meeting of the board. Mr. Hernandez requested an informal hearing.

After discussion, the board voted unanimously to approve the application.

5. SAMUEL K. LAWHUN – REQUEST TO RECONSIDER CONDITIONAL APPROVAL OF APPLICATION

Mr. Lawhun was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Lawhun’s application to qualify an additional business was conditionally approved with probation at the March, 2009 meeting of the board. Mr. Lawhun requested reconsideration and asked that the board reconsider their decision to approve the application with probation.

After discussion, the board voted unanimously to reconsider the application. Additionally, the board voted unanimously to approve the application without any conditions.

6. MICHAEL D. MCADAMS – INFORMAL HEARING

Mr. McAdams was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. McAdams’ application for certified general contractor’s license was denied at the March, 2009 meeting of the board. Mr. McAdams requested an informal hearing.

After discussion, the board voted unanimously to approve the application with a downgrade to certified building contractor.

7. PEDRO J. PINEDA – REQUEST FOR EARLY TERMINATION OF PROBATION

Mr. Pineda was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Pineda filed a request for early termination of his probation.

After discussion, the board voted unanimously to deny the request.

8. ERIN H. RYBOS – INFORMAL HEARING

Ms. Rybos was present at the hearing with her attorney, Amy Schrader, and Todd Lee, officer of the proposed business. Ms. Rybos and Mr. Lee were sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Ms. Rybos' application for certified building contractor's license was denied at the April, 2009 meeting of the board. Ms. Rybos requested an informal hearing.

After discussion, the board voted unanimously to approve the application.

9. BARRY TEIXEIRA – REQUEST TO RECONSIDER PREVIOUS PROBATION APPEARANCE

Mr. Teixeira was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Teixeira's probation appearance of May, 2009 was found to be unsatisfactory. Mr. Teixeira requested reconsideration of that appearance.

After discussion, the board voted unanimously to deny the request.

10. LAZARO VILLALONGA – INFORMAL HEARING

Mr. Villalonga was present at the hearing with his wife as an interpreter. Mr. Villalonga and his wife were sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Villalonga's application for certified roofing contractor's license was denied at the February, 2009 meeting of the board. Mr. Villalonga requested an informal hearing.

After discussion, the board voted unanimously to approve the application.

11. JOHN FLATHE – INFORMAL HEARING

Mr. Flathe was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Flathe's application to qualify GMC Air Conditioning Services LLC was denied at the June, 2009 meeting of the board. Mr. Flathe requested an informal hearing.

After discussion, the board voted unanimously to approve the application.

12. FLORIDA ASSOCIATION OF PLUMBING, HEATING, COOLING CONTRACTORS – REQUEST FOR RECONSIDERATION

There were no representatives of Florida Association of Plumbing, Heating, Cooling Contractors present at the hearing.

Mr. Janecek explained that the Association's course entitled "Reducing Workers' Compensation Fraud" had been approved as general credit by the board at the July, 2009 meeting. He further explained that the Association failed to request workers' compensation credit for this course. Mr. Biggins asked the board to consider the Association's request to reconsider the approval of the application to include workers' compensation credit.

After discussion, the board voted unanimously to approve the request and reconsidered the application. The application was approved to include workers' compensation course credit.

13. JEFFREY L. HUFFMAN – INFORMAL HEARING

Mr. Huffman was not present at the hearing.

Mr. Biggins presented the case, stating that Mr. Huffman's application for certified plumbing contractor's license was denied at the May, 2009 meeting of the board. Mr. Huffman requested an informal hearing.

After discussion, the board voted unanimously to uphold the denial of the application, citing the same reasons as noted in the notice of intent to deny.

14. THOMAS A. LEE – INFORMAL HEARING

Mr. Lee was not present at the hearing.

Mr. Biggins presented the case, stating that Mr. Lee's applications for course approval for the courses entitled, "Building Envelope" and "Safety and Health Program" were

denied at the June, 2008 meeting of the board. Mr. Lee requested an informal hearing.

After discussion, the board voted unanimously to remand the applications to the Exams/CE/Public Awareness committee for additional review.

15. JIMMY S. MURPHY – REQUEST FOR EARLY TERMINATION OF PROBATION

Mr. Murphy was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Murphy filed a request for early termination of his probation.

After discussion, the board voted unanimously to deny the request.

16. NATIONAL ROOFING CONTRACTORS ASSOCIATION – INFORMAL HEARING

There were no representatives of National Roofing Contractors Association present at the hearing.

Mr. Biggins presented the case, stating that the Association's course entitled "NCRA/MRCA CERTA Train-the-Trainer Authorization" was denied at the July, 2008 meeting of the board. The Association requested an informal hearing.

After discussion, the board voted unanimously to remand the application to the Exams/CE/Public Awareness committee for additional review.

17. ERNESTO REYES – INFORMAL HEARING

Mr. Reyes was present at the hearing with an interpreter, Mr. Victor Franz. Both men were sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Reyes' application for certified general contractor's license was denied at the April, 2009 meeting of the board. Mr. Reyes requested an informal hearing.

After discussion, the board voted unanimously to uphold the denial of the application, citing the same reasons as noted in the notice of intent to deny. Additionally, the board asked that board staff ensure that a copy of this application is included during the review of any future applications that may be submitted by Mr. Reyes.

18. RHEEM AIR CONDITIONING DIVISION – INFORMAL HEARING

Wyman Branderson was present at the hearing as a representative of Rheem Air Conditioning Division. Mr. Branderson was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Rheem's course entitled "Comfort Control² System" was denied at the January, 2009 meeting of the board. Rheem requested an informal hearing.

After discussion, the board voted unanimously to remand the application to the Exams/CE/Public Awareness committee for additional review. Additionally, the board requested that Rheem submit a detailed course outline, in 50-minute increments, prior to the committee meeting.

19. CHRIS ROESSLER – INFORMAL HEARING

Mr. Roessler was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Roessler's application to qualify an additional business was denied at the June, 2009 meeting of the board. Mr. Roessler requested an informal hearing.

After discussion, the board voted unanimously to approve the application.

20. JOHN SCOTT – INFORMAL HEARING

Mr. Scott was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Scott's application for change of status was denied at the May, 2009 meeting of the board. Mr. Scott requested an informal hearing.

After discussion, the board voted unanimously to approve the application.

21. RYAN SMUDDE – INFORMAL HEARING

Mr. Smudde was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Smudde's application for certified general contractor's license was denied at the March, 2009 meeting of the board. Mr. Smudde requested an informal hearing.

After discussion, the board voted unanimously to uphold the denial of the application, citing the same reasons as noted in the notice of intent to deny.

22. TIMOTHY WYATT – INFORMAL HEARING

Mr. Wyatt was present at the hearing and was sworn-in by the court reporter.

Mr. Biggins presented the case, stating that Mr. Wyatt's application for certified building contractor's license was denied at the January, 2009 meeting of the board. Mr. Wyatt requested an informal hearing.

After discussion, the board voted unanimously to conditionally approve the application so long as the applicant provides board staff with one year of experience, properly verified, within 30 days.

F. COMMITTEE REPORTS

1. EXAMS/CE/PUBLIC AWARENESS COMMITTEE

Mr. Flaherty reported the recommendations from the July, 2009 and August, 2009 meetings of the committee.

The board voted unanimously to accept the recommendations of the committee.

2. AD HOC COMMITTEE

Ms. Watts reported the recommendations from the August, 2009 meeting of the committee.

The board voted unanimously to accept the recommendations of the committee.

3. RULES/PUBLIC/LEGISLATIVE COMMITTEE

Mr. Pietanza reported the recommendations from the August, 2009 meeting of the committee.

The board voted unanimously to accept the recommendations of the committee.

G. OLD BUSINESS

There were no topics for discussion.

H. NEW BUSINESS

There were no topics for discussion.

With no further business to discuss, the meeting was adjourned at 10:51am.