

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
OCTOBER 23, 2014
HOLIDAY INN
2805 HIGHWOODS BOULEVARD
RALEIGH, NC 27604**

BOARD MEMBER PRESENT

Bill Booth
Ed Cobbler
Clyde Cook
Marcus Benson
William MacRae
Richard Epley
Eric Weaver Sr.
Robert Clark
Bud Cesena
Donald Foster

BOARD MEMBERS ABSENT

Monty Clark

STAFF PRESENT

Terry Wright - Director
Anthony Bonapart - Deputy Director
Phillip Stephenson – Field Services Supervisor
Charles McNair– Attorney
Judy Pittman - Training Officer
Maia Washington-Powell – PPSB Licensing Assistant

GUEST PRESENT

Gary Pastor
Donald Miller
David Arndt
Denise Martin
Beatrice Powers
Jollette Morrison
Larry Flannery
Jeffrey Hayes
Suzanne Creech
Kenneth Shoffeld

Paul Schroll
Hollie Trivette
Harry House
Michael Walker
Pam Mayfield
Bill Dover
Bill Fletcher
Jerry Pitman
Kimberly Hamilton

Thomas Vaughn
John Powell
Sam Witty
Gregory Hatten
Walter Pylypiw
Jennifer McCracken
Chris Green
Anthony McCollum
Jeff Kiker

CALL TO ORDER

Chairman Eric Weaver called the October 23, 2014 Private Protective Services Board meeting to order at 9:00 a.m. Chairman Weaver welcomed all guests.

GOOD OF THE ORDER:

Attorney Charles McNair explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

Mr. Gregory Hatten, president of the NCAPI greeted the Board and all of the guests. He reported that there are currently 251 industry members pre-registered for the 2014 Fall Conference to be held in Cherokee, NC and NCAPI membership is up.

The presentation of The Order of The Long Leaf Pine to be given by Secretary Frank L. Perry was postponed to the December board meeting.

MINUTES:

APPROVAL OF THE AUGUST 21, 2014 MEETING MINUTES

MOTION BY MR. COBBLER TO ACCEPT THE MINUTES; SECONDED BY MR. BOOTH; MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. Cobbler reported that the Screening Committee met on Wednesday, October 22, 2014 from 8:05 a.m. to 10:49 a.m. to review a total of 45 applications. (See report). The committee members were Mr. Cobbler, Mr. MacRae, Mr. Foster and Mr. Cesena. Mr. Cobbler read the report for the record.

Mr. MacRae recused himself from #18 and #43 of the screening report.

MOTION BY MR. BOOTH TO ACCEPT THE SCREENING REPORT; SECONDED BY MR. MACRAE; MOTION CARRIED.

Director Terry Wright presented the following registration report for the period of August 19, 2014 to October 20, 2014. Total registrations 4,572; armed totals were 652 of which 236 were new and 286 were renewals, 1 duplicate and 129 reissue/dual. There were a total of 135 Armed Armored Car, 79 of which were new, 54 were renewals, and 2 reissue/dual. There were a total of 1 Armed Private Investigators, which was a renewal; and 1 new Armed Private Investigator Associate. Unarmed totals were 3,756 which included 1,487 new, 1,986 renewals, 260 transfers, and 23 duplicates. There were a total of 27 unarmed armored car, 23 of which were new and 4

The following PPS Trainer courses are scheduled:

November 3-7, 2014 (0800-1700) UAGT Course & Workshop at WTCC
November 17, 2014 (1000-2300) FT Re-certification & Pre-Qualification Course NCJA

Mr. Cobbler reported that continuing education courses submitted by Mr. John Fay are only available for six (6) credit hours. He also reported that the courses submitted by Mr. Lance Jones for forty (40) credit hours would only count as twelve (12).

MOTION BY MR. MACRAE TO ACCEPT THE TRAINING AND EDUCATION COMMITTEE REPORT; SECONDED BY MR. BOOTH; MOTION CARRIED.

GRIEVANCE COMMITTEE:

NONE

SCREENING COMMITTEE:

NONE

Mr. Foster informed the board of his suggestion to the investigative staff to research the cost and benefits of obtaining an account with an employment verification website. Staff will bring their findings and report to the board at the December board meeting.

LAWS AND RULES COMMITTEE

The Laws and Rules Committee did not meet. A phone conference will be held with all members instead.

FINANCE REPORT:

Mr. MacRae reported that the committee reviewed information about the new computer database upgrade and GL Solutions. He also asked that if board or staff members had any budget suggestions to let him know.

MOTION BY MR. BENSON TO ACCEPT THE COMMITTEE'S REPORT; SECONDED BY MR. BOOTH; MOTION CARRIED.

ETHICS COMMITTEE:

Mr. Cook reported that the Ethics Commission has been notifying him on outstanding SEI reports. Staff will now notify him when a training deadline is overdue. He also reminded everyone to maintain training and annual reports.

OLD BUSINESS:

NONE

NEW BUSINESS:

Deputy Director Anthony Bonapart presented the memorial for Investigator Helen Parker, which will be delivered to her family by investigator Cynthia Hepburn.

Mr. Bud Cesena asked if the board would be discussing the issues presented in the letter from Sho Pros Entertainment Services, Inc. Director Terry Wright advised that it would be discussed during the Laws and Rules Committee meeting.

FINAL AGENCY DECISION

Attorney Charles McNair removed himself as counsel to the Board to present the following cases.

The Board received the official record for the following case:

Alvin Thomas Bennett 14 DOJ 1061 (attachment 3). Mr. Bennett was not present. This case was heard by Administrative Law Judge Craig Croom on March 28, 2014. This case involved the suspension of Petitioner's firearms permits based on lack of good moral character and temperate habits as evidenced by a charge of Larceny after Breaking and Entering, Felony Breaking and Entering and Felony Possession of Stolen Property in Mecklenburg County, North Carolina for offenses that occurred on December 30, 2013.

Administrative Law Judge Craig Croom proposes that Petitioner's armed registration permits be summarily suspended.

MOTION BY MR. BOOTH TO UPHOLD JUDGE'S DECISION; SECONDED BY MR. COOK; MOTION CARRIED.

Scott Eric Smithers 14 DOJ 00728 (attachment 5). Mr. Smithers was not present. This case was heard by Administrative Law Judge Craig Croom on February 25, 2014. This case involved the suspension of the Petitioner's private investigator license based on lack of good moral character and temperate habits as evidenced by Petitioner willfully failing to render to a client services as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties, failed to offer a report to a client within thirty (30) days of the client's written request after the client has paid for services rendered, and divulged to any person, except as required by law, any information acquired by the private investigator except at the direction of the employer or client for whom the information was obtained.

Administrative Law Judge Craig Croom proposed that Petitioner's license be suspended for a period of six (6) months.

MOTION BY MR. BOOTH TO UPHOLD JUDGE'S DECISION; SECONDED BY MR. COOK; MOTION CARRIED.

DIRECTOR'S REPORT:

Director Terry Wright read the report for the record. The current PPS budget as of September 30, 2014, has a balance of \$1,116,054.93; the Education Fund balance is \$68,846.55. As of October 20, 2014, the total registrations for PPS is 18,002, 1,739 licensees, and 595 certifications.

Mr. Bonapart reported that there have been a total of 2,487 various correspondences printed from the PPS database, 4,950 registration cards have been printed and a total of 5,849 applications received since the last Board meeting.

MOTION BY MR. MACRAE TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. BOOTH; MOTION CARRIED.

Director Wright advised the board that testing for the computer database upgrade would run through the month of December. Training for industry members would begin in early 2015. He also advised that there is still a balance \$189,000. Department of Public Safety is currently in discussions as to whether they will pay the balance. Director Wright reported that because of the move to DPS, the maintenance for the new system will now cost \$96,000 and the board will need to decide who will absorb the cost.

Mr. MacRae asked if the \$189,000 balance was part of the original contract and if Department of Justice has paid their portion. Director Wright advised they had not.

Mr. Cook asked whether or not Department of Justice has a legal obligation to pay the balance. Director Wright advised that the contract is between the boards and the vendor, not Department of Justice.

Mr. MacRae asked if any of the Department of Justice IT employees transferred and if they would be able to offer support. Director Wright advised that the Department of Public Safety IT employees will be unable to support the system. It was suggested that GL Solutions offer IT support for the first year.

Mr. Booth suggested that the board freeze any new grant money in effort to save money to should the board be responsible for paying the outstanding balance. Mr. MacRae stated that it would not be necessary to freeze any grant money.

MOTION BY MR. COOK TO DISCUSS WHETHER OR NOT THE DEPARTMENT OF JUSTICE HAS AN OBLIGATION TO PAY THE OUTSTANDING BALANCE FOR THE DATABASE UPGRADE IN THE LAWS AND RULES COMMITTEE MEETING;

SECONDED BY MR. CESENA; OPPOSED BY MR. BENSON, MR. MACRAE AND MR. FOSTER; MOTION CARRIED.

BREAK: 10:09 a.m.
BACK IN SESSION: 10:25 a.m.

ATTORNEY'S REPORT:

MOTION BY MR. EPLEY TO ACCEPT THE ADMINISTRATIVE RULE AMENDMENTS; SECONDED BY MR. MACRAE; MOTION CARRIED.

Attorney Gray discussed the following:

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Paul Manley Jr. /Show Pros Entertainment Services of Charlotte, Inc. On October 24, 2013 the Private Protective Services Board voted to enter into a consent agreement with Mr. Manley in the amount of \$15,586.40 in twelve monthly installments for registration violations with the first payment due January 1, 2014. The tenth payment was received on August 1, 2014. (\$1,298.86).
2. Scott Smithers/Eye Spy Investigations. On December 12, 2013, the Private Protective Services Board voted to assess a civil penalty in the amount of \$1,000.00 for failing to offer a written report to a client. The Final Agency Decision hearing is scheduled for the Board's October 23rd meeting.
3. Lance Jones/Safe & Secure Worldwide Protection Group, LLP. On August 21, 2014 the Board voted to enter into a consent agreement with Mr. Jones in the amount of \$1,407.60 for failing to properly register unarmed guards. Payment was due on October 1, 2014. To date, payment has not been received.

II. OFFICE OF ADMINISTRATIVE HEARINGS

June 24, 2014	PPSB Kerry Allen Graves	Suspension of license for 90 days
	PPSB Angel Ruberto Anderson	Suspension of firearms registration
February 25, 2014	PPSB Alvin Thomas Bennett	Summary suspension of Firearms registration permits
	PPSB Scott Eric Smithers	Summary suspension of Firearms registration permits

July 29, 2014	PPSB David R. Beatson	Denial of Unarmed Permit
August 26, 2014	PPSB Jermaine Chareem Norfleet PPSB Jeremy Clark	Denial of Security Guard & Patrol License Summary suspension of Unarmed Guard Registration Permit
October 29, 2013	PPSB Jesse J. Williamson	Denial of Unarmed Security Guard Registration Permit
December 17, 2013	PPSB Kelsie Lamel Floyd	Denial of Unarmed Guard Registration Security Permit

III. RULES

1. The Public Hearing for amendments to 12 NCAC 007D.0105, 0.116,.0809, .1408 and .1508 was held at the board’s office 4901 Glenwood Avenue, Suite 200, Raleigh, North Carolina on August 27, 2014 at 2:00 p.m., and the Public Comment Period ended September 30, 2014. A motion to adopt these administrative rule amendments and adoptions is necessary.
2. As a part of the transfer to the Department of Public Safety the Board’s administrative rules will also have to be amended to reflect this change and transferred to another Title within the North Carolina Administrative Code. There are five (5) references to “Attorney General” in the Board’s rules and one (1) reference to “Department of Justice.” The Budget Act made all the appropriate changes throughout the General Statutes, including Chapter 114 which governs the Attorney General and the Department of Justice, Chapter 74C which governs Private Protective Services and Chapter 74D which governs Alarm Systems Licensing Board, but the Board will have to go through an “abbreviated” rule amendment process to make the conforming changes to its administrative rules. Notice and a public hearing will not be required, but review by the Rules Review Commission will.

Mr. Gray has been in contact with Molly Masich, Codifier of Rules, who has in turn been in contact with the Rulemaking Coordinator for DPS. Once a new Chapter and numbers are assigned under Title 14B (DPS’s section of the Code,) the Board can begin the process.

3. Chapter 93B-2 was amended by the Legislature in House Bill 761, “Regulatory Reform Act of 2014,” to add two new requirements to the annual report that the

Board must file with the Secretary of State, Attorney General and the Joint Legislative Administrative Procedures Oversight Committee. In addition to the other 11 items that must be included in the report, the Board must now include: 1). The total number of licensees supervised by the Board, and 2). The number who “failed the examination” (which is generally inapplicable to Private Protective Services except for the examination or Unarmed Guard Trainer and Firearms Trainer certification.)

4. The Legislature also amended the rulemaking provisions of Chapter 150B of General Statutes, thereby changing certain requirements of the process for certain proposed rules in G.S. 150B-19.1(h). The requirement for the Governor’s cabinet agencies and the departments of Council of State to obtain certification prior to publishing proposed rules is repealed. This was referred to as “G.S. 150B-19.1 Certification.” However, certification is still required for proposed rules with substantial economic impact.
5. The Legislature also moved the requirement for agencies to obtain Office of State Budget and Management (OSBM) approval of fiscal notes to before publication of the Notice of Text in the North Carolina Register. Furthermore, agencies proposing a rule change with substantial economic impact must obtain a certification form OSBM of adherence to principles (2), (5) and (6) from G.S. 150B-19.1(a) prior to publication. OSBM is drafting new guidelines to include in its State Budget Manual and will circulate it when finalized.

IV. LEGISLATION

1. The General Assembly adjourned for its 2013-2014 Biennial Session with no further action on House Bill 466, “Amend Private Protective Services Act/Fees.” Before January 2015, the Board will need to vote on seeking introduction of a similar bill in the 2015-2016 Biennial Session.
2. Attorney Gray has previously reported that during the 2012 Session of the Legislature, the Joint Legislative Administrative Procedures Oversight Committee replaced the Joint Select Regulatory Reform Committee. This committee now has oversight over the study by the Program Evaluation Division (PED) of the structure, organization and operation of all occupational licensing boards in the State and the feasibility of a single “umbrella” agency as required by Section 10(a) of S.L. 2013-413. Attorney Gray has been attending the meetings of this Committee.

The PED began the process of evaluation of boards in May, 2014. Only four (4) boards were visited and the staffs interviewed. The remainder is to be evaluated

through a “questionnaire” which all boards, including PPSB, received on July 9th. It contained 58 questions, the majority of which were related to financial issues. The responses were submitted by the deadline of July 31st. The PED’s final report on all occupational and professional licensing boards is due to the Administrative Procedures Oversight Committee by December 31, 2014.

3. On July 10, 2014 Governor Pat McCrory signed Senate Bill 741 (S.L. 2014-67), “An Act to Enhance the Effectiveness of the Occupational Licensing of Military Service Members.” This Act amends the recently enacted amendments to Chapter 93B of the General Statutes regarding military-trained applicants and applicants who are spouses of active duty military. (The Board’s amendments to its administrative rules to effectuate these requirements were effective October 2, 2013.)

The Act deleted the provision in N.C.G.S. 93B-15.1(a)(1) that the applicant’s experience is a determination to be made by the Board. It also requires the Board to notify the military-trained applicant within 30 days following receipt of an application whether the applicant’s military training and experience satisfies the requirements for licensure, registration or certification. The Board must publish a document listing the specific requirements for licensure that are satisfied by military training and experience and publish it on the Board’s website and the website of the North Carolina Division of Veterans Affairs. The Board must further contact training offices at military installations or any other federal offices that provide information on military occupational specialties and training for the purpose of acquiring information necessary for determining the applicability and correlation of military training and experience to the criteria and requirements for licensure, certification or registration.

No later than September 1, 2014, each occupational licensing board was required to submit a report to the co-chairs of the Legislative Research Commission Study Committee on Civilian Credit for Military Training and State Adjutant Selection Criteria with the status of the required document and the results of their consultation with military training officials as required by the Act.

Similar amendments to this same statute necessitated changes to seven of the Board’s administrative rules in October 2013: 12 NCAC 07D .0301 (Experience Requirements for Security Guard and Patrol License), .0302 (Experiences Requirement’s for Guard Dog Service License), .0401 (Experience Requirements for Private Investigator License), .0501 (Experience Requirements for Polygraph License), .0601 (Experience Requirements for Psychological Stress Evaluator), .0901 (Experience Requirements for Firearms Trainer Certification), and .0909 (Experience Requirements for Unarmed Trainer Certification.) While each of these rules states that the applicant must “establish to the Board’s satisfaction” that the applicant has “two years...verifiable experience,” and the latest amendment prevents the Board from making an independent determination of that experience, the current version of these rules still appears to be compliant and no (further) changes should be necessary.

V. PENDING CASES

As previously reported, the Plaintiff has refiled the civil action against Board Investigator Sarah Conner, the Board, the City of Charlotte, the Charlotte-Mecklenburg Police Department and various officers of the Charlotte-Mecklenburg PD in *Kelly v. Conner, et al.*, No. 3:13-CV-636 – WDNC. Mr. Kelly was unlicensed as a security guard business and unregistered, but performing security guard and patrol services. He is also a convicted felon. He was arrested and charged with, among other violations, violating Chapter 74C.

The Attorney General's Office is again representing Ms. Conner.

The Board has responded to Plaintiff's First Set of Interrogatories and Request for Production of documents received on May 29, 2014. The Plaintiff was deposed by counsel for the Defendants on October 16th, but additional time was needed and his deposition was continued until November 5th. It is anticipated that Director Wright and/or Deputy Director Bonapart, and possibly Board member Ron Burris, will be noticed for deposition, as well as Ms. Conner. Attorney Gray plans to file a Motion to Dismiss on behalf of the Board in mid-November once discovery is completed.

MOTION BY MR. COBBLER TO ACCEPT ATTORNEY'S REPORT; SECONDED BY MR. MACRAE; MOTION CARRIED.

Director Wright addressed the Board and asked if the meeting in February should remain a three (3) day or if it should be changed to a two (2) day.

MOTION BY MR. BOOTH TO CHANGE FEBRUARY BOARD MEETING FROM A THREE DAY TO A TWO DAY MEETING; SECONDED BY MR. COBBLER; MOTION CARRIED.

Deputy Director Bonapart also addressed the Board and asked if the grant announcement should be delayed. Mr. MacRae advised that there would be no need to delay the grant announcement.

PUBLIC COMMENT:

NONE

MOTION BY MR. COBBLER TO ADJOURN; SECONDED BY MR. COOK; MOTION CARRIED.

10:35 a.m. Adjourned

Anthony B. Bonapart, Deputy Director

Maia Washington-Powell, Licensing Assistant