

**Florida Board of Professional Engineers
December 7 & 8, 2005
Beginning at 8:30 a.m., or soon thereafter
Tallahassee, Florida
Part I
General Business Meeting**

A. Meeting Administration

#1. Call to Order, Invocation, and Pledge of Allegiance to the Flag

Robert L. Matthews, P.E., Chair
Henn Rebane, P.E., Vice Chair
Christian S. Bauer, Ph.D., P.E.
John C. Burke, P.E.
David O. Charland, P.E.
Jorge R. Duyos, P.E.
R. Gerry Miller, Ph.D., P.E.
Daniel J. Rivera, Public Member
Albert E. Rose, P.E.
Paul Tomasino, P.E.
Gloria M. Velazquez, Esq., Public Member

Guests:

Dr. Melvin Anderson, P.E., Chair, FEMC Board of Directors
Kamal Al-Imam, P.E., Member, FEMC Board of Directors
Frank Rudd, Executive Director, FES
Charlie Geer, P.E., FES/FICE Board Liaison

FBPE Staff:

Paul J. Martin, Esq., Executive Director
Carrie A. Flynn, Assistant Executive Director
Douglas Sunshine, Esq., Chief Prosecuting Attorney
Bruce Campbell, Esq., Board Prosecuting Attorney
Leigh Ann Dollar, Executive Assistant

Counsel to the Board:

Lee Ann Gustafson, Senior Assistant Attorney General

#2. Introduction of guests and announcements as to presentations at a time certain.

- a. Presentation by Kermit Prime, FES, regarding Concept to Modify Florida Continuing Education requirements to more closely shadow those in NCEES Model Law.

Kermit Prime was present to address the Board on a proposed legislative amendment that would bring the continuing education requirements under Chapter 471, F.S., in line with the NCEES model guidelines on continuing education. The proposal would require thirty (30) continuing education hours in addition to the four hours on Florida Laws and Rules. It would increase the opportunity for out of state engineers to use hours that are completed in other states. It would also comport with the originally proposed mandatory continuing legislation that would have required 30 hours every biennium.

In response to concerns expressed in seeking any change at this time, Mr. Prime confirmed that FES would not submit any legislative changes unless the Board would be supportive of this proposal. In discussion, it was noted that FES had not conducted a survey of their membership to determine whether they would support such an increase in continuing education hours. The FES Board of Directors had endorsed the legislation. Further, there would be a concern with the requirement under Chapter 455, F.S., to demonstrate 100% compliance with all mandatory continuing education requirements prior to licensure renewal.

Ms. Gustafson explained that the Board's present rule addresses many of the same requirements of the NCEES model. She did not see any benefit to the proposed changes.

Mr. Rebane asked why the laws and rules requirement could not be removed.

Mr. Martin commented on the fact that should Chapter 471, F.S., be amended to allow the Board to set by rule the number of hours of mandatory continuing education to be required for renewal, the Board would be setting itself up to take on a large responsibility as the Board would become the subject of any and all comments regarding any existing requirements. Presently, the Board simply imposes the CE minimums that are set as statutory requirements for renewal of PE licenses. He also noted that he did not believe the legislature would look favorably on any bill that deleted the Florida laws and rules requirement.

Mr. Rebane moved to support the proposal. The motion failed for lack of second. The Board then advised Mr. Prime that the Board could not support any legislative amendments to the Continuing Education requirements at this time.

In response to a question from Mr. Rudd, Ms. Gustafson explained the facts relating to a recent rule challenge against the Board that

she was defending that was based on the new language that prohibits a provider from having any interest, direct or indirect, in any technology that is the subject of the instruction provided. The petition was based on the fact that the Board's continuing education statute refers to consistency with NCEES guidelines and the NCEES guidelines do not contain any limitation of this type.

Petitioner argues in his pleading that since the Board's rules do not follow the NCEES guidelines, then Petitioner did not believe the Board could deny the application for provider status relying upon such rules.

Ms. Gustafson was not sure how the Hearing Officer would rule. If she rules that the rule enlarges the statute, the rule maybe deemed invalid.

After the discussion, Ms. Velazquez asked that future meeting materials include copies of the rules to which the petitions were related so that they may review the specific rules during Board discussion.

b. Other guests and announcements.

#3. Approval of the Agenda

Mr. Rebane noted that Agenda Items D#1 and D#2 are listed on the agenda for December 8, 2005. To be prepared to act on these items, Mr. Rebane believed that limited discussion on the first day of this two day meeting would be appropriate.

Regarding Agenda Item B#10, Mr. Duyos added discussion of the Unlicensed Activity Program.

The Nominating Committee's Report was added under the Chair's Report at Agenda Item F.

Upon a motion by Dr. Miller seconded by Mr. Rebane, the agenda was approved as amended.

#4. Approval of the Consent Agenda
(Items denoted with an asterisk are included in the Consent Agenda*)

The following Agenda Items were pulled from the consent agenda.

A#5a, B#7a, G#1, #3, #4 and #5

Upon a motion by Mr. Tomasino seconded by Mr. Duyos, the consent agenda was approved as amended.

#5. Review and Approval of previous Board meeting minutes

a. Minutes from the August 17 & 18, 2005 Board Meeting

Mr. Rebane asked that the terms of the stipulations offered in the Bairley and Kany disciplinary cases that were rejected by the Board be included in the minutes.

Upon a motion by Mr. Rebane seconded by Ms. Velazquez, the minutes were accepted as amended.

b. Minutes from the September 30, 2005 Conference Call*

This item was approved on the Consent Agenda.

B. Committee Reports

#1. Applications Committee

(John Burke, P.E., Chair; David Charland, P.E.; Henn Rebane, P.E.; Albert Rose, P.E.; Daniel Rivera)

a. Minutes from the November 16, 2005 Applications Review*

This item was approved on the Consent Agenda.

#2. Educational Advisory Committee

(Jorge Duyos, P.E., Chair; R. Gerry Miller, Ph.D., P.E.; Christian Bauer, Ph.D., P.E.; Melvin Anderson, Ph.D., P.E. (Consultant))

a. No report.*

#3. Education Task Force

(Jorge Duyos, P.E., Chair, Christian Bauer, Ph.D., P.E., Mel Anderson, Ph.D., P.E., (Consultant))

a. Minutes from the September 21, 2005 meeting*

This item was approved on the Consent Agenda.

#4. Probable Cause Panel

(Robert Matthews, P.E.; John Burke, P.E.; Allen Seckinger, P.E., Consultant)

a. September 15, 2005, Probable Cause Panel Meeting*

This item was approved on the Consent Agenda.

- b. November 10, 2005, Probable Cause Panel Meeting*

This item was approved on the Consent Agenda.

- #5. FBPE Rules Committee
(Henn Rebane, P.E., Chair; John Burke, P.E.; Albert Rose, P.E.; Paul Tomasino, P.E.; David Charland, P.E.)

- a. No report.*

- #6. Joint Engineer / Architect Committee
(Henn Rebane, P.E., Chair; Daniel Rivera)

- a. No report.*

- #7. FBPE / FEMC Board Operations Committee
(Robert Matthews, P.E., Chair)

- a. Minutes from the November 9, 2005, meeting

1. Temporary Licensure.

Mr. Rebane expressed his concerns about establishing a protocol for temporary licensure. Mr. Martin explained that the need for implementing such a protocol results from the number of hurricanes that have struck Florida in the last two years. Because of a sudden surge in interest in licensure by endorsement, the board office has been receiving an increased number of requests for temporary licensure while seeking permanent licensure by endorsement. Section 471.021, Florida Statutes, requires that an applicant for a temporary license must be eligible for permanent licensure by endorsement and that he/she prove that the state of original licensure provides for such temporary licenses for Florida P.E.'s who might apply in that state.

There have been reasons for a marked slow down of processing endorsement applications in the later half of 2005. Most notable was the impact caused by cancellation of the October meeting due to Hurricane Wilma. In response to this concern, Mr. Martin requested that the Board consider delegation to staff to review and approve temporary licensure applications.

Mr. Rebane stated that in the minutes it referred to discussion of the protocol and application and instructions. Mr. Martin explained that a protocol has been developed and Ms. Ingram has designed an application that is a modification of the endorsement

application. Mr. Rebane asked for a clarification in reference to the rule that addresses the requirement for movement of the endorsement applications within certain time frames. Mr. Martin responded by confirming that there was no rule. It has been a policy of the Board to take action and move as quickly as possible on endorsement applications.

Board members then posed some questions regarding following up on temporary licenses upon their expiration in order to verify that the laws governing these types of licenses were followed. Mr. Burke and Mr. Rebane indicated support of delegation to staff based on the fact that most states do not require their board members to review endorsement applications.

Mr. Tomasino expressed some concern with the ability to discipline individuals granted temporary licenses.

Ms. Gustafson confirmed that the statute does require issuance of a temporary certification upon determination of eligibility. Unfortunately, disciplinary action would be difficult to impose and enforce and Chapter 471, Florida Statutes, may require amendments to implement safeguards for this process.

In discussion, it was noted that use of the endorsement application as a temporary certification application would work with one minor modification to include specific identification of the project location.

Upon a motion by Mr. Rebane seconded by Mr. Charland, staff was delegated authority through the Executive Director to approve endorsement applications and temporary certification applications.

Mr. Tomasino offered a friendly amendment to limit temporary certifications for six months. The amendment was not accepted after Ms. Gustafson confirmed that Chapter 471, Florida Statutes, does not provide authority to the Board impose such a limitation.

It was also noted that temporary certifications, if issued multiple times to the same individual, would provide a means of avoiding continuing education requirements.

Mr. Duyos wanted more specifics regarding description and location of the project and confirmation that staff would follow up on progress of the project.

Mr. Martin confirmed that he would follow model law requirements EAC/ABET degree, four years of experience and passing of the NCEES Fundamentals and Principles and Practice

examinations. This would apply to temporary certification and endorsement applications. Foreign degree holders and articulation candidates would still be reviewed and approved by the Board.

Mr. Matthews offered an amendment to the temporary certification process. Anything beyond one temporary certificate to a particular person would have to be presented to the Board for approval.

Mr. Rebane accepted this amendment to his motion and he added to his motion that temporary certification would last only for three months. In discussion of this matter, it was confirmed that staff would have to follow up on any temporary certification just prior to ending of the temporary time frame.

A vote was called and the motion passed as amended, giving the Executive Director delegated authority to review and approve endorsement applications and temporary certification applications that met model law requirements, EAC/ABET education, passed both exams and had at least four (4) years of verified, acceptable engineering experience. Such temporary certifications would be valid for a period of three months and only available one time. Second requests for temporary certification must be referred to the Board for review.

Mr. Martin confirmed that a copy of the protocol will be presented to the Board at the February meeting for review and comment.

Mr. Tomasino inquired and received confirmation that if the program does not work, the application review committee would review and approve the applications.

It was agreed that a list of approved temporary certification applications would be presented to the Board for ratification at the Board's Conference Call Meetings held in each odd month of the calendar year. This follows the procedure in place for delegated review and approval of model law engineer applicants by staff.

2. Discussion of policy imposing three year viability limit on license fees and initial application files.

Ms. Velazquez asked for an explanation of the office policy for disallowing retake applications with expired fees and outdated applications.

Mr. Martin explained that in reviewing many of the re-examination applications for the Principles and Practice examination, it was noted that the applications were well over three years old and by state statute, the fees paid were no longer valid. In the past,

applicants were allowed to apply with only an amended profile data form and, by using this process, there was no additional update of the experience record and there was no method of determining if the applicant had some type of disciplinary action in their background. There were files that had been open like this for over twelve to fifteen years and should one such applicant pass the PE exam, he/she would receive a license without paying a valid license fee and with nothing in his/her licensure file describing engineering experience for a period in excess of 12-15 years nor requiring an update of the questions regarding criminal activities and administrative disciplinary actions.

To bring these records up to date, the applicant is now required to submit a new licensure fee and provide a new initial application that updates the experience record from the time of original application through to present day. To make sure that information regarding this procedure is available and fully explained to all applicants, the Board's website now includes specific instructions on this process, who it applies to and how it is to be fulfilled.

Ms. Velazquez suggested that an entire application package be required. This would require submission of all documents.

Upon a motion by Mr. Rebane seconded by Mr. Burke, this matter was referred to the Rules Committee.

Mr. Rebane believed the Executive Director may have exceeded his authority by implementing this process without consulting the Board. He made a motion to suspend the new procedures until all amendments are approved and rules are in place. Mr. Burke seconded the motion for discussion.

Mr. Martin asked that the Board's rules be amended to codify the procedures since the board members supportive of the concept. This protocol can then be used by the Rules Committee in rule development. Those applications filed in violation of the procedures would be presented to the Board for denial.

Mr. Martin requested the board consider amending Chapter 61G15-20, F.A.C., to establish a three year period of validity of application approvals. Ms. Velazquez suggested wording that sets three years from the deposit of the fee.

Mr. Martin explained that this procedure follows the procedure already in place for closing files that remain incomplete for over six months.

Several Board members expressed concerns about suspending the procedures. Mr. Matthews stated that this Board should be involved in all changes to protocols, procedures, applications, etc. to ensure that proper rulemaking occurs and to allow the Board's input in the rulemaking process.

Mr. Matthews noted that suspending the changes that have already been imposed on applicants, however, may not present the best impression to applicants that are already following the procedure.

A vote was called and the motion failed.

3. Discussion of FEMC Organization Charts and Future Introductions of Staff to Board Members

Ms. Velazquez asked about the possibility of having a copy of the staff organizational chart. She also asked about having a staff person who speaks Spanish. It was noted by Mr. Martin that the receptionist speaks Spanish.

Dr. Anderson noted that FEMC had directed at its Board of Directors meeting earlier in the week that, within the coming year, all staff persons should appear briefly before the FEMC Board of Directors and this Board in order to introduce themselves while explaining their positions and responsibilities.

In response to Ms. Velazquez's request for an organizational chart, Mr. Martin reviewed the current organizational chart and identified the individual staff members and their responsibilities. He outlined the recently instituted process of cross training all licensure technician positions, the imposition of disciplinary processes available to employees who may not be adequately performing and analysis of workloads to make sure the work is being handled as a team.

4. Impact of LicenseEase on Board Operations

Mr. Matthews noted one of the most critical subjects discussed during the Board Operations Committee meeting in November was LicenseEase. The Board Operations Committee remains extremely concerned about the ability to process the next renewal in 2007 in a more expedient and timely manner. To date, DBPR has not provided any CE reporting module as part of the program. The Board reiterated that we cannot go through a renewal similar to the 2005 renewal. It was determined at the Board Operations Committee Meeting that a letter signed by Mr. Matthews and Dr. Anderson as Chair of FBPE and FEMC Board of Directors would be sent to the Secretary of DBPR requesting the creation of the

contracted CE Self-reporting Module for Professional Engineers by February 28, 2006. Mr. Matthews noted that he would in town for the remainder of this week and he would work with Mr. Martin to draft the letter and that he would hand deliver said letter in a meeting to be scheduled with Secretary Marsteller.

There was also discussion on the expiration of the Accenture contract with DBPR for LicenseEase and the need to be adequately prepared for future planning. Some board members reiterated that the Board had only agreed to use this program until expiration of the Accenture initial contract in 2008.

Mr. Martin stated that the FEMC Board of Directors had directed him to develop a written contingency plan for online renewal should the Department not come through with a plan for incorporating a renewal program in LicenseEase.

5. Fall 2005 Newsletter.

Ms. Velazquez asked about the fall newsletter. Mr. Martin stated that the fall newsletter is close to completion and would be mailed soon.

6. Paperless Board Meeting Solution Proposed for FY 2006-2007.

Mr. Martin reminded the Board that because of the Department's decision to draw reimbursements due from FBPE to the Department directly from the Trust Fund as opposed to holding back those sums from FEMC's annual appropriation, there would be an opportunity to use some of the short-term surplus in the next couple of annual budgets for implementing a few new programs. Mr. Martin believed moving to a paperless solution for meeting materials would be very helpful to the Board. In lieu of books, the agenda and related materials would be placed on a compact disc. As part of the program, FEMC would provide each board member with a notebook computer for the purpose of reviewing the meeting materials prior to and during the Board Meetings with the requisite software to read and make notes regarding the materials. Before each meeting, the board members would receive a compact disc containing an indexed set of meeting materials to be used to prepare for each meeting. The major technology concern in this proposal has been the development of the indexing protocol to be followed in making the materials compact disc fully functional and user friendly. Once implemented, this paperless solution would allow FEMC to reap long term savings in copying and mailing costs and the maintenance costs for such a system would appear to be nominal. The idea was well received by the Board.

After conclusion of discussion, the following action was taken:

Upon a motion by Dr. Bauer seconded by Mr. Rivera, the plan to move forward with budgeting and implementation of a paperless meeting solution in FY 2006-2007 was approved.

The Board also suggested having a screen available at board meetings so that the documents can also be reviewed by the audience.

- #8. Continuing Education Committee
(R. Gerry Miller, Ph.D., P.E., Chair; Henn Rebane, P.E.; Paul Tomasino, P.E.; John Burke, P.E.; Christian Bauer, Ph.D., P.E.)

- a. Minutes from the September 20, 2005 meeting

1. Repealing Subsection (7) of Rule 61G15-22.003, F.A.C.

Dr. Miller noted that the committee had met on September 20, 2005, and the minutes were in the Yellow Book for this meeting.

Dr. Bauer noted discussion of the repeal of Rule 61G15-22.003 (7), F.A.C. In light of that discussion he was prepared to offer a motion on the matter. Upon a motion by Dr. Bauer seconded by Dr. Miller, Ms. Gustafson was directed to repeal Subsection (7) of Rule 61G15-22.003, F.A.C.

In discussion, Mr. Martin explained that he had recommended the repeal of this provision based on the fact that many courses taken in other states are completed from providers that do not meet the requirements of this board and would not be acceptable if proffered by a resident P.E.

A vote was called and the motion passed.

2. Approval of Rule Providing Laws and Rules Course Approval for 2007.

In the minutes it was noted that in December of each even year, the website would contain a list of rules updates. This list will point out changes that would necessary for approved providers to update their laws and rules courses.

Dr. Miller noted that the next scheduled Continuing Education meeting is scheduled for January 17, 2006. At that time the committee would ratify for a recommendation in the February

meeting the proposed rule regarding board approval of laws and rules courses.

Upon a motion by Mr. Duyos seconded by Mr. Rivera, the minutes were accepted as presented.

- #9. FBPE Legislative Committee
(Daniel Rivera, Chair, Christian Bauer, Ph.D., P.E.; Henn Rebane, P.E., Jorge Duyos, P.E.; Paul Tomasino, P.E.)
 - a. No Report.*
- #10. Unlicensed Activity Committee
(Christian Bauer, Ph.D., P.E., Chair; Albert Rose, P.E.; Jorge Duyos, P.E., R. Gerry Miller, Ph.D., P.E.; John Burke, P.E.)
 - a. No report.*

Mr. Duyos stated that he will be working with Dr. Bauer regarding the program that was developed by FES last year. This program will be presented to the Deans' Council at their next meeting. Presently there is \$25,000 assigned to this project.

C. NCEES

- #1. NSPS NAFTA Mutual Recognition Document (MRD)*
- #2. Letter from NCEES regarding Nominations for National Awards*
- #3. Zone Update October 2005*

Upon a motion by Ms. Velazquez seconded by Mr. Rivera, Items C#1, #2 and #3 were accepted under the consent agenda.

- #4. Memo from NCEES regarding Washington Accord Programs*

Mr. Duyos stated that the Board's action last year to repeal recognition of the Washington Accord has been proven appropriate and correct based on the letter from ABET regarding evaluations of the engineering programs that were deemed acceptable under the Washington Accord.

- #5. Report on NCEES Annual meeting held in August, 2005

Mr. Burke encouraged all Board members to attend NCEES annual meetings. He indicated that these meetings provide so much information regarding all states' licensure requirements, examination issues and items relative to the licensure and practice of engineering.

Mr. Rebane noted the defeat of a motion at the meeting that would have required that votes on agenda items could only be cast by the Board members, not by proxies like Executive Directors.

D. Advisory Attorney's Report

1. Discussion of Petitions for Waiver or Variance Procedure.

Because the Board will have to take action on two Petitions for Variance or Waiver tomorrow, it was determined that a general discussion of Variance or Waiver Petitions and the standards to be applied by the Board in determining whether to grant or deny them would be beneficial

Ms. Gustafson explained the statutory requirements that apply to a Petition for Variance or Waiver of the Board's rules. The Board was scheduled to hear two petitions on December 8, 2005. Under Chapter 120, Florida Statutes, persons who are unfairly affected by rules are allowed to file a Petition for Variance or Waiver. The person must demonstrate in their petition how they are unduly affected by the rule or how applying the rule to them would work a substantial hardship. The content of the petition provides the basis for a decision to approve or deny the variance or waiver. The petitions must be acted on within ninety days of filing. If the petition is denied, the petitioner is entitled to a hearing under Chapter 120, Florida Statutes. From that point on, it is the same as a notice of denial proceeding in a license application case. If there are disputed issues of material fact, then the matter is referred to DOAH for a formal hearing. If it does not meet requirements for a formal hearing in that there are no disputed issues of material fact, then the matter is heard as an Informal Hearing before the Board.

There was discussion on the background of the two petitions for variance and waiver.

Mr. Rebane noted that notices of expiration of CE provider status were not issued to providers. He believed that this had a direct affect on the loss of provider status for DOT. In review of the Board's rules, he believed that Section 61G15-22.011 (7), F.S. would allow the option of granting credit to the licensees that were affected by expiration of approval status. This would be more appropriate than waiving a requirement in a board rule.

Ms. Gustafson did not fully agree with the interpretation of the rule in the manner in which Mr. Rebane suggested. The provision speaks to credit for licensees when the Board withdraws provider status. However, it is the Board's rule and if it is the Board's interpretation to have these licensees receive credit then they should vote accordingly. If it is not interpreted this way, then the hours would not be recognized for renewal.

Regarding the Florida DOT petition, Mr. Martin explained that DOT lost provider status because they did not apply by the deadline. Many providers did file by the deadline and were approved for provider status with no break in the course offerings. He did not agree with varying from the rules simply because they were negligent in filing their application timely.

Ms. Gustafson advised the Board to keep in mind separation of issues. They should vote on the petition that sets out a request to waive the requirement of the rule as it relates to courses completed during the time that DOT was not approved as a provider. Once the Board votes on the petition they can then consider whether they wish to grant credit to those individuals that completed courses from DOT while they were not in an approved status.

In the course of this discussion it was confirmed that DOT's application for provider for 2005-06 was approved in September of 2005. With this action DOT may elect to withdraw their petition. If this were to occur the vote of the petition becomes mute and the only remaining issue is recognizing for credit courses completed during the time DOT was not approved as a provider.

Regarding the petition of Applicant Ruck, he has petitioned for variance or waiver of Rule 61G15-20.006(2), F.A.C. His application for licensure by endorsement was denied because he does not hold an EAC/ABET accredited degree. Mr. Ruck first filed a rule challenge because he felt that the Board had not taken steps to promulgate rule amendments concerning approval of engineering programs that are not EAC/ABET accredited. The need for such rulemaking arose from the 4th DCA opinion issued in the Joseph Gaudet case.

Simultaneously with the filing the rule challenge, Mr. Ruck filed this Petition for Variance or Waiver of the rule based on the Board's failure to develop new rules for review of non-EAC/ABET engineering programs. In the petition, he requests the Board to allow a review of his education under the criteria set forth in Rule 61G15-20.007, F.A.C., based on his belief that his education is substantially equivalent to the education received by graduates from EAC/ABET accredited engineering programs at the Ohio State University, his alma mater.

In response to the Gaudet appellate decision, the Board had appointed an Educational Task Force earlier this year to begin the process of rulemaking. The first meeting of this committee was in September. At this meeting, Ms. Gustafson provided a proposed draft program approval rule for review and editing. The proposed rule would set parameters for approving institutions. In response to the concern with progress of this task, it was determined that the proposed draft will be reviewed by the Educational Task Force in January and a final draft would be presented to the Board at the February meeting.

In general discussion of this rule, it was confirmed that site visits will have to be accomplished either by the Board or its appointed delegates and there may be an issue regarding who will bear the cost of the review.

- #1. October Rules Report - (This item will be presented on the second day)
- #2. December Rules Report - (This item will be presented on the second day)
- #3. Ruck Petition for Variance or Waiver
- #4. DOT Petition for Variance or Waiver
- #5. Board Counsel Opinion Letters
 - a. No report.*

E. Executive Director's Report

- #1. October List of Applicants Requesting Retired Status*

Upon a motion by Mr. Charland seconded by Mr. Burke, Items #1 and #12 were accepted as presented.

- #2. Memo from Betsy Browne, Executive Director, NCEES, regarding ECEI "Re-Evaluation" Process

At the NCEES Annual Meeting in August, Mr. Martin had listened to comments regarding the re-evaluation process enacted by ECEI. This re-evaluation was based on an additional study of how they were assigning credit for engineering science and design courses in their foreign degree transcript evaluations. With this change in the way they assigned such credit, it appeared that evaluations completed in the past few years may have been inaccurate and unreliable. He asked if the Board wanted to consider the withdrawal of approval of ECEI.

Upon a motion by Ms. Velazquez seconded by Mr. Duyos, ECEI would be removed from the approved list of evaluators set forth in Rule 61G15-20.007, F.A.C. In discussion of the motion, it was suggested that these evaluation services should be subject to a periodic audit to determine if their evaluations were still acceptable and reliable. Mr. Rebane noted that ABET had performed a self audit. Upon discovery by NCEES of this change in evaluations, notice of the situation was provided to all boards.

After discussion the motion was withdrawn.

Upon a motion by Ms. Velazquez seconded by Mr. Rivera, staff was directed to hire a consultant to perform a spot audit of the companies and report the findings to the Board. Mr. Martin will draft a letter to ECEI explaining that evaluations submitted with the qualifying statement regarding content would not be accepted. This applies to 2004 and earlier evaluations. The letter should also request that charges for a new

evaluation be kept to a minimum in order to assist the applicant in getting a corrected evaluation.

- #3. Letter from ABET dated September 2, 2005
- #4. Discuss FEMC Financial Report (Sent previously with 2005 Annual Report)

Upon a motion by Ms. Velazquez seconded by Mr. Rivera, Agenda Items #4 and #7 were accepted as presented.

- #5. Case Report
- #6. Probation Report

The report was reviewed and concerns were expressed as the report was not reviewed prior to presentation on the agenda and certain questions on time frames could not be answered by staff. These issues should be addressed prior to the next meeting and staff prepared to answer all questions concerning this report.

Upon a motion by Dr. Bauer seconded by Ms. Velazquez, Agenda Items #5 and #6 were accepted as presented.

- #7. Discuss 2005 FEMC Annual Report (Sent Previously)
- #8. Task Status Report

Mr. Martin reviewed the task list from the last Board meeting in August. There are no outstanding assignments. Mr. Rebane suggested that unsolved assignments remain on the task list until assignments are resolved. The tasks should also be broken down as to where the tasks are assigned, Executive Director, Board committee or Advisory Counsel. If no action is taken, then the task should be returned to the Board for removal from the list.

He called specific attention to the issue of as built drawings. He is Chair of the NCEES ACCA Committee. One charge of this committee is to report back findings on as built drawings and the requirement of signing and sealing by a Professional Engineer.

Mr. Martin did not have a problem with expanding the list to include committee and Board staff assignments.

Mr. Burke asked about an update on Mr. Campbell or Mr. Martin's plans to get an update on the product approval committee. Mr. Martin has contacted the agency to request notification of the next meeting so that he and/or Mr. Campbell may attend.

#9. Amendment to Endorsement Rule 61G15-21.009

In reviewing the endorsement applications, it has become apparent that there might be a need to provide some latitude for coursework for individuals who have been licensed a number of years in another state. In response to this discussion, Mr. Martin had drafted a proposed amendment to the endorsement rule for board consideration.

The amendment dealt with endorsement applications where there are minor deficiencies in the applicant's education, such as a course in basic sciences, etc., so that they would be considered substantially similar to an EAC/ABET accredited program education. In review of the draft, the Board determined that further review was needed and the Chair referred the matter to the Educational Advisory Committee.

#10. Discussion on use of Avis Credit Cards for car rentals

Mr. Martin affirmed the process to be followed in use of Avis Credit Cards for car rental.

#11. Letter to Andy Edwards, Deputy Secretary, dated November 1, 2005, returning undisbursed funds to DBPR

#12. December List of Applicants Requesting Retired Status*

F. Chair's Report

a. No report.*

On behalf of the Nominating Committee, Mr. Duyos presented a slate of officers for 2006 naming Henn Rebane as Chair and John Burke as Vice Chair for 2006.

Upon a motion by Dr. Bauer seconded by Mr. Duyos, the slate of nominations was accepted as presented and Mr. Rebane and Mr. Burke were elected as officers for the next year.

G. Correspondence to the Board

#1. Letter from Clifford Gorman, Esquire, dated September 13, 2005

The questions in the letter were discussed and the response was that the rule mandated retention of engineering records for a three year period and there is no prohibition in the rule against having the retained documents in electronic form.

The purpose of the rule is to require a set of documents. These might include those documents that are not always submitted to permitting agencies. Mr. Martin will respond to Mr. Gorman to clarify that electronic files would meet the intent of the rule. They should also be signed and sealed and placed in protected storage.

- #2. Letter from Timothy B. Thornton, P.E. dated September 16, 2005*

Ms. Gustafson will respond to Mr. Thornton regarding his questions on the changes in the seal.

- #3. Letter from the City of Tallahassee, dated October 5, 2005

- #4. Email from Chris Rizer dated October 14, 2005

This e-mail from Mr. Rizer poses questions relating to truss design documents. Question #1 – is it acceptable to the Board for the delegated truss design engineer to use the structural engineer of record’s company name, address, and certificate of authorization number in lieu of the EOR’s actual name, address, and license number on the truss cover/index sheet. The answer to this question is no. Question #2 - is it acceptable to the Board for the truss design engineer to not identify the EOR’s information on the signed and sealed cover/index sheet and not sign and seal each truss design drawing referenced on the cover/index sheet. The answer to this question is no.

- #5. Newsletter from Penn State

Mr. Rebane requested that a copy of this study be obtained for him when they become available.

H. Old Business

There was limited discussion of a recent telephone call concerning Design-Build projects. The discussion was to be continued in a Board meeting to allow a final determination on this matter. In general discussion, it was reaffirmed that if a company operates as a Design-Build firm, they must have a Certificate of Authorization from the Board.

I. New Business

Dr. Bauer had received a postcard advertisement offering CE courses. When reviewing the course offerings he had selected one course. The course he chose was comprised of several pages of technical writing. He had asked Ms. Carlton to contact the company and report her findings.

Ms. Carlton confirmed that this company is not an approved provider. In telephone conversations, the provider had indicated that he did not need Board approval to offer his courses in Florida.

In discussion it was noted that there is no means of limiting the company from offering services, however, it could be noted on the Board's webpage and in the upcoming newsletter that licensees who take this course will not receive continuing education credit.

J. Public Forum

Ratification of Application Review of December 7, 2005.

Upon a motion by Mr. Rebane seconded by Dr. Bauer, the list of applications reviewed on December 6, 2005, were ratified.

**Part II
Informal Hearings**

D.

#4 Petition for Variance and Waiver, Janice Scott, Deputy General Counsel, DOT

Ms. Scott stated that DOT was withdrawing their Petition for Variance and Waiver in view of the Board having approved their application as a continuing education provider in the September meeting. With this action, the question of the individuals attending courses during the time the provider was not approved should be addressed.

Upon a motion by Mr. Rebane seconded by Mr. Charland, the Department of Transportation was instructed to submit a list of names of individuals who attended courses while the approval was not in place. These individuals would receive credit for the courses attended.

DOT's Mr. Peat explained the circumstances that resulted in expiration of their provider status. He stated that DOT had taken measures to ensure that this type of situation would not occur in the future.

A vote was called and the motion passed.

K. Informal Hearings on Denial of Application for Fundamentals Examination

#1 Juan Camilo Velez

Mr. Velez was not present for his informal hearing.

Mr. Velez's application for the Fundamentals examination was denied based on educational deficiencies. Mr. Velez holds a degree from Colombia and must comply with the requirements of Section 61G15-20.007, F.A.C. Mr. Velez was required to document "substantial equivalency" to the engineering criteria set for in the Board's rule. The Board reviewed the evaluation from Josef Silny & Associates and determined that Mr. Velez did not evidence a course in Chemistry and he was deficient 2.25 semester credit hours in Humanities and Social Sciences. Mr. Velez submitted an Election of Rights to supplement and to have an Informal Hearing.

Mr. Velez appeared at an Informal Hearing at the June 2005 meeting. At that meeting, he requested that his file remain open until the Board's October meeting to allow him to complete a course in Chemistry and 2.25 semester credit hours in Humanities and Social Sciences. The Board approved the continuance to the October meeting. With cancellation of the October meeting, the hearing was carried forward to the December meeting. Mr. Velez submitted transcripts of courses completed at Hillsborough Community College.

Upon a motion by Dr. Bauer seconded by Mr. Duyos, the application was approved for the April 2006 Fundamentals examination.

L. Informal Hearings on Denial of Application for Principles and Practice Examination

#1 Debra L. Prince

Ms. Prince was not present for her informal hearing.

Ms. Prince applied for the Principles & Practice examination and was denied because she had failed the examination five times. In order to be considered for a future application, Ms. Prince is required to evidence 12 college credit hours of college level courses in her area of deficiency. In response to the Notice of Denial, Ms. Prince submitted an Election of Rights to supplement and to have an Informal Hearing before the Board. The supplement consisted of transcripts of courses completed at UCF prior to the last sitting of the examination and proof of completion of a continuing education course from Georgia Tech. The courses completed at UCF would not be acceptable because they were not taken after the date of the last exam leading to the fifth failing score, so the education was not remedial, and the continuing education course from Georgia Institute of Technology would not qualify as college level courses as required by statute. The denial was upheld and the Informal Hearing was scheduled for the December meeting.

Upon a motion by Dr. Miller seconded by Mr. Rivera, the denial of the application was upheld.

M. Informal Hearings on Denial of Application for Licensure by Endorsement

#1 Glenn R. Carwell, III

Mr. Carwell was present for his informal hearing and was sworn prior to addressing the Board.

Mr. Carwell applied for licensure by endorsement. Mr. Carwell's examinations and experience are accepted. The basis for denial is education. Mr. Carwell holds a BSET from Old Dominion University awarded in 1992. Mr. Carwell does not satisfy the educational requirements of Section 471.013 (1), Florida Statutes, and Rule 61G15-20.001(2), F.A.C., as he received his degree in engineering technology in Virginia in 1992. Section 471.013 (1)(a)2., Florida Statutes, requires proof of enrollment or graduation prior to July 1, 1979, from a college or university in Florida's State University system.

Upon a motion by Dr. Bauer seconded by Mr. Burke, the denial of the application was upheld.

#2 Tennyson Jay Kwok

Mr. Kwok was not present for his informal hearing.

Mr. Kwok's application for licensure by endorsement was denied. Mr. Kwok was licensed in California in 1991 based on acceptance of his education, experience, waiving of the Fundamentals Examination and a passing grade on the Principles and Practice Examination. The basis for denial is failure to evidence a passing grade on the Fundamentals Examination. Mr. Kwok is not eligible for waiver of the Fundamentals Examination under Section 471.015(5)(a), Florida Statutes, therefore, he would have to take and pass the Fundamentals Examination for licensure in Florida.

Upon a motion by Dr. Bauer seconded by Dr. Miller, the denial of the application was upheld.

#3 Teresa M. Keiffer Curry

Ms. Keiffer Curry was not present for her informal hearing. She was represented by Bruce Culpepper, Esquire.

Ms. Keiffer Curry's application for licensure by endorsement was denied. Ms. Keiffer Curry's experience and examinations were accepted. The basis for denial was her education. Ms. Keiffer Curry holds a Bachelors of Science in Civil Engineering Technology awarded in May of 1997. In order to be accepted with a technology degree in Florida the applicant

would have to satisfy the timeline outlined in Section 471.013(2), Florida Statutes, "a graduate of an approved engineering technology curriculum of 4 years or more in a school, college or university within the State University System, having been enrolled or having graduated prior to July 1, 1979."

In response to the Notice of Denial, Ms. Keiffer Curry filed a petition for a Formal Hearing. As Board Counsel did not believe the petition demonstrated a disputed issue of material fact, the petition was placed on the Board agenda for consideration toward denying the petition and to address the matter through an Informal Hearing. The matter was handled as an Informal Hearing and a Final Order was issued. Ms. Keiffer Curry then appealed the Final Order to the First District Court of Appeal. The District Court remanded this matter for a Formal Hearing. At DOAH, Ms. Keiffer Curry determined through her counsel that there were no real disputed facts in this matter and the parties jointly moved the Administrative Law Judge to remand the matter back to the Board for a final Informal Hearing to finally determine the matter.

After the matter was placed on the Board's agenda, Ms. Keiffer Curry filed a Motion for Continuance of the hearing from the August Board meeting. The Board approved the continuance until the October 2005 board meeting. With cancellation of the October meeting, the case was carried forward to the December Board meeting.

Mr. Culpepper addressed the board on behalf of his client.

Upon a motion by Mr. Duyos seconded by Mr. Rivera, the denial of the application was upheld.

#4 Robert Snyder

Mr. Snyder was not present for his informal hearing.

Mr. Snyder's application for endorsement was denied. Mr. Snyder was licensed in Alabama in 1980. His Fundamentals examination in Louisiana and the Principles and Practice examination in Alabama and his experience were accepted.

The basis for the denial is education. Mr. Snyder holds a 1973 BS degree from the University of South Alabama with a major in Electrical engineering. Research of records indicates the program was not accredited by EAC/ABET until 1979.

Mr. Snyder submitted an Election of Rights form to have an Informal Hearing that was scheduled for the December meeting. Mr. Snyder submitted a request to withdraw his request for hearing.

Based on this action no further action was taken.

#5 Paul Potter

Mr. Potter was present for his informal hearing and was sworn prior to addressing the Board.

Mr. Potter's application for endorsement was denied. Mr. Potter was licensed in New York based on acceptance of his education, experience and passing of examinations. The basis for denial of the application is the method of achieving the passing score on the Principles and Practice Examination. Mr. Potter failed the examination four times between 1985 and 1987. After his final attempt in 1987 resulted in a grade of 68, New York averaged the score of 68 with his grades on the Fundamentals Examination and determined that the average of the two scores exceeded 70. On that basis, he was awarded licensure in New York.

He briefed the Board on the examination process completed in New York and upon conclusion of discussion the following action was taken.

Upon a motion by Dr. Miller seconded by Mr. Duyos, the denial of the application was upheld.

#6 Fulvio Eduardo Jaramillo

Mr. Jaramillo was not present for his informal hearing.

Mr. Jaramillo's application for endorsement was denied. Mr. Jaramillo was licensed in Georgia in 2004 based on acceptance of his education, experience and passing the Fundamentals and the Principles and Practice Examinations. The basis for denial of Mr. Jaramillo's application is his education. Mr. Jaramillo holds a degree in civil engineering from the University of Javeriana in Columbia. He was required to file an evaluation of his foreign credentials for a determination of compliance with Rule 61G15-20.007, F.A.C. A review of the evaluation from ECEI indicated a deficiency of 6 semester credit hours in Humanities and Social Sciences and a course in General Chemistry.

In response to the Notice of Denial, Mr. Jaramillo submitted his Election of Rights form to supplement and to have an Informal Hearing. The supplemental material was a letter requesting recognition of certain courses listed in the ECEI's evaluation as satisfying the Humanities and Social Sciences and he asked if the requirement for a Chemistry course could be satisfied by completion of Physics courses. The Committee reviewed the letter and determined the denial should be upheld as the courses were not in the category of Humanities and Social Sciences and the courses in Physics did not cover the requirement for a course in

Chemistry. The Informal Hearing was scheduled for the December Board meeting.

Upon a motion by Dr. Bauer seconded by Mr. Burke, the denial of the application was upheld.

#7 Mohsen M. Mostajabi

Mr. Mostajabi was present for his informal hearing and was sworn prior to addressing the Board.

Mr. Mostajabi's application for licensure was denied. Mr. Mostajabi was licensed in Georgia in 1985 based on acceptance of his education, experience and passing of the Fundamentals and Principles and Practice examinations. The basis for denial is his education. Mr. Mostajabi holds a degree in engineering from the University of London, London, England. Based on this fact, he is subject to meeting the substantial equivalency requirements of Rule 61G15-20.007, F.A.C.

To evidence compliance, Mr. Mostajabi submitted an evaluation from Foreign Credentials Service of America. The Board determined that the evaluation was inadequate as it was not an FBPE type of evaluation. It was an educational evaluation for universities and colleges and not one to the Board's standards. FCSA sells both types of evaluations and Mr. Mostajabi did not get the correct level of evaluation performed.

Mr. Mostajabi attended the August 2005 Board meeting in Coral Gables. At that time, he explained that the University of London indicated they no longer have records to release as part of the evaluation. Mr. Mostajabi indicated that he had contacted two evaluation services and was unable to secure an evaluation that meets the requirements of the Board's rule. The Board granted Mr. Mostajabi a continuance until the December 2005 meeting to allow him time to research the possibilities of securing the necessary documents to complete an evaluation of his education.

Mr. Mostajabi explained that in accordance with the Board's instruction he had contacted Josef Silny and Associates. Efforts to secure an evaluation have failed. Upon conclusion of discussion the following action was taken:

Upon a motion by Mr. Rebane seconded by Mr. Burke, the application was referred to the Educational Advisory Committee for possible articulation.

#8 Nand Karamchandani

Mr. Karamchandani was not present for his informal hearing.

Mr. Karamchandani applied for licensure by endorsement. He was first licensed in California in 1984 based on acceptance of his education, experience and passing the Fundamentals and Principles and Practice Examinations. The basis for denial of Mr. Karamchandani's application in Florida is his education. Mr. Karamchandani holds a civil engineering degree from the V.J.T. Institute, University of Bombay, India. He was required to file an evaluation of his foreign credentials for a determination of compliance with Rule 61G15-20.007, F.A.C. In response to the Notice of Denial, Mr. Karamchandani submitted his Election of Rights to supplement and to have an Informal Hearing before the Board. The supplemental material was a copy of his transcript from V.J.T. Institute. It did not contain an evaluation of his undergraduate degree. The denial was upheld and the Informal Hearing was scheduled for the December Board meeting.

After discussion and upon a motion by Dr. Miller seconded by Dr. Bauer, the denial of the application was upheld.

#9 Donald Gregory Ruck, Represented by Edwin Bayó, Esquire

Mr. Ruck was present with Mr. Bayó for his informal hearing regarding the denial of his application for licensure and board action on his Petition for Variance and Waiver. Mr. Ruck was sworn prior to addressing the Board.

Mr. Ruck applied for licensure by endorsement. He was first licensed in Ohio in 1997 based on acceptance of his education, experience, passing of the Fundamentals Examination in Ohio and the Principles and Practice Examination in Washington.

The basis for denial of this application is Mr. Ruck's education. He has a Bachelor's Degree in Engineering Physics from Ohio State University in Columbus, Ohio. This program is not accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, Inc. and it is not a Board approved engineering program.

A Notice of Denial dated June 20, 2005 was forwarded to the applicant's Ohio address: 7203 Shady Nelms Drive, Dublin, Ohio 43017. The letter was returned to the Board office by the Post Office as unclaimed. On August 23, 2005, Mr. Bayó contacted the Board office to report that his client had not received his Notice of Denial. A copy of the Notice of Denial was faxed to Mr. Bayó. In response, Mr. Bayó submitted a letter dated August 29, 2005 indicating that he considered the twenty-one (21) day period in which his client could file an Election of Rights and request a hearing began on August 23, 2005. A Petition for Informal Hearing accompanied the August 23, 2005 letter.

First, the Board took up the Petition for Waiver or Variance.

Mr. Bayó addressed the Board on Mr. Ruck's education record. Although Mr. Ruck's program was not EAC/ABET accredited, he has exceeded the number of hours in all categories that comprise an accredited program.

The Board has received two rulings by the court regarding the Board's responsibility to provide a means for an applicant to request a review of a program for Board approval.

Ms. Gustafson responded to these comments by stating that only one agency has ruled the Board's rule to be invalid. In response, the Board has initiated rulemaking on Rule 61G15-20.006, F.A.C.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the Petition for Variance and Waiver was denied. Grounds for denial were based on the following points:

- #1 The Board is in the process of rule development and when in place this case could be readdressed.
- #2 There appear to be substantial issues as to whether enrollment of an engineering physics program was a way to circumvent completion of a more challenging program.

This case is not unlike many other cases in which the Board has denied the application because the applicant did not hold an EAC/ABET accredited degree.

Upon conclusion of discussion a vote was called on the motion to deny the Petition for Variance and Waiver and it passed unanimously.

Informal Hearing

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the Informal Hearing would be continued until the rule was promulgated. At that time Mr. Ruck could follow the procedures outlined in the rule addressing approval of new program approval rule.

Ms. Gustafson explained that the rule amendment would be acted upon in February and would most likely become effective sometime in April or the beginning of May. The earliest meeting for continuance would be June of 2006.

After discussion it was determine that a continuance would not be beneficial due to the length of time the file would remain open.

Mr. Rebane withdrew his motion and Mr. Duyos withdrew his second.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the Board voted to uphold the denial of the application for licensure by endorsement.

N. Special Inspector Applications

#1 Tanya Homleid, P.E.

Ms. Homleid was not present for her informal hearing.

Ms. Homleid was licensed in August of 2004. The basis for denial of Ms. Homleid's application is her failure to evidence compliance with the minimum requirements contained in Rule 61G15-35.003(1)(c), F.A.C. This rule states in part that the applicant has to demonstrate 24 months of design experience in the structural design of threshold buildings after obtaining her licensure as a Professional Engineer in Florida. Ms. Homleid submitted an Election of Rights form to supplement and to have an Informal Hearing. The supplemental material did not change the basis for denial and the hearing was scheduled for the December Board meeting.

Upon a motion by Mr. Charland seconded by Mr. Rivera, the denial of the application was upheld.

O. Informal Hearings on Denial of Application for Continuing Education

#1 General Physics Corporation

General Physics was not present for the Informal Hearing.

General Physics Corporation applied for approval as a provider of continuing education. The Board denied their application based on failure to satisfy the criteria of Rule 61G15-22.011(2), F.A.C. The Board determined that General Physics Corporation does not meet the definition of a regionally accredited educational institution, commercial educator, a government agency, a state or national professional association whose primary purpose is to promote the profession of engineering or an engineer with a Florida license to practice engineering who is not under disciplinary restrictions pursuant to any order of the Board. General Physics Corporation submitted an Election of Rights form requesting an Informal Hearing.

The supplemental information addressed a name change but it did not change the basis for denial.

Upon a motion by Mr. Charland seconded by Mr. Rivera, the denial of the application was upheld.

#2 Professional Technology Systems

Professional Technology Systems was not for the Informal Hearing.

Professional Technology Systems applied for approval as a provider of continuing education. The Board denied its application based on failure to satisfy the criteria of Rule 61G15-22.011(2), F.A.C. The Board determined that Professional Technology Systems does not meet the definition of a regionally accredited educational institution, a commercial educator, a government agency, a state or national professional association whose primary purpose is to promote the profession of engineering or an engineer with a Florida license to practice engineering who is not under disciplinary restrictions pursuant to any order of the Board. Research of board records indicates that Professional Technology Systems does not hold a current Certification of Authorization.

Professional Technology Systems submitted an Election of Rights form requesting an Informal Hearing. Mr. Figueredo, the contact person for the application process, submitted a written statement regarding the denial. The statement did not change the basis for denial.

Upon a motion by Mr. Rose seconded by Mr. Burke, denial of the application was upheld.

#3 Professional Advancement Corporation

Professional Advancement was not present for the Informal Hearing

Professional Advancement Corporation applied for approval as a provider of continuing education. The Board denied their application based on failure to satisfy the criteria of Rule 61G15-22.011(2), F.A.C. The Board determined that Professional Advancement Corporation does not meet the definition of a regionally accredited educational institution, a commercial educator, a government agency, a state or national professional association whose primary purpose is to promote the profession of engineering or an engineer with a Florida license to practice engineering who is not under disciplinary restrictions pursuant to any order of the Board.

Professional Advancement Corporation submitted an Election of Rights form requesting an Informal Hearing. In lieu of appearance a written statement was submitted. The statement did not change the basis for denial.

Upon a motion by Mr. Charland seconded by Mr. Burke, the denial of the application was upheld.

#4 Florida Education Facilities Planners' Association

Florida Education Facilities Planners' Association was not present for Informal Hearing

Florida Educational Facilities Planners' Association (FEFPA) applied for approval as a provider of continuing education. The Board denied their application based on failure to satisfy the criteria in Rule 61G15-22.011(2), F.A.C. The Board determined that FEFPA does not meet the definition of a regionally accredited educational institution, a commercial educator, a government agency, a state or national professional association whose primary purpose is to promote the profession of engineering or an engineer with a Florida license to practice engineering who is not under disciplinary restrictions pursuant to any order of the Board.

FEFPA submitted an Election of Rights form requesting an Informal Hearing.

Upon a motion by Dr. Bauer seconded by Mr. Charland, the denial of the application was upheld.

#5 Streamline Technologies, Inc.

Streamline Technologies, Inc. was represented by Mr. Edwin Bayó, Esquire.

Streamline Technologies, Inc. applied for approval as a provider of continuing education. The Board denied the application because the applicant failed to establish that it was eligible for such status under the categories set forth in Rule 61G15-22.011(2), F.A.C. Since the applicant company is owned by Peter Singhofen, P.E., it applied for and was approved for a Certificate of Authorization to perform engineering services. The applicant elected to supplement this application and part of the supplemental materials proved that now the applicant was eligible for Provider status as a business organization with a valid Certificate of Authorization. Upon reviewing the supplemental materials, the Board determined that the company was now in a category of eligibility but that the company had a direct interest in the technology that was the subject of the instruction being offered. The applicant provides courses that teach people how to use the stormwater design software developed and sold to various entities by the applicant. Streamline Technologies owns and sells the software that is the subject of the instruction that it would be offering as CE courses. On that basis, the denial was upheld on that ground. Because the eventual reason for denial of this application was not the reason communicated in the Notice of Denial, Board Counsel instructed staff to issue an Amended Notice of Denial to the applicant explaining the exact reason for the eventual denial of the application. In response to that Amended Notice of Denial, the applicant requested an Informal Hearing.

Upon a motion by Mr. Burke seconded by Mr. Rebane, the denial of the application was upheld.

P. Special Appearance before the Board

None

Part III
Disciplinary and Unlicensed Hearings

Ms. Gustafson outlined the content of a Final Order issued in The Pool People, Inc vs. the Board of Professional Engineers.

Q. Recommended Orders

- #1. Robert L. Plowfield, P.E.
PE 39759
DOAH Case Number 04-4117PL
FEMC Case Number 02-0168
Represented by David P. Rankin, Esquire
Probable Cause Panel: Rebane, Matthews, Seckinger (October 24, 2002)
Matthews, Tomasino, Seckinger (January 15, and May 12 and 13, 2003)

Mr. Plowfield was in attendance with his counsel Mr. David P. Rankin, Esquire.

Mr. Plowfield has been charged by Administrative Complaint of negligence in the practice of engineering of violating a provision of chapter or rule of the board or department relating to drawings for a Hunter's Creek Community Association Town Hall project. The drawings for the Hunter's Creek Community Association Town Hall contain errors relating to the practice of engineering.

Mr. Plowfield disputed the facts upon which the Administrative Complaint is based. A formal hearing was conducted on May 19, 2005. By Recommended Order dated August 8, 2005, the Administrative Law Judge concluded Mr. Plowfield was negligent in the practice of engineering and recommends the Board enter a Final Order imposing a reprimand, \$5,000.00 fine, a two-year suspension, and six-year period of probation.

On August 24, 2005, the Respondent filed exceptions to the Administrative Law Judge's Recommended Order. On August 29, 2005, the Petitioner filed a response to Respondent's Exceptions to Recommended Order.

Mr. Rankin addressed the Board on exceptions that he had filed on behalf of client. Exceptions were part of the record and no further comment on content was needed.

Upon a motion by Mr. Burke seconded by Mr. Duyos, Respondent's Exceptions 1 through 6 were denied.

Upon a motion by Mr. Duyos seconded by Dr. Miller, the Findings of Fact were adopted as the Board's Findings of Fact.

In discussion of the penalty to be imposed, an inquiry was made as to what penalty was recommended by the Probable Cause Panel (PCP). In discussion, Mr. Rankin submitted the PCP penalty for consideration by the Board in imposing the penalty.

Upon a motion by Mr. Charland seconded by Ms. Velazquez, the Board imposed a penalty consisting of a reprimand; fine in the amount of \$1000; 3 years probation with plan reviews at 6, 12, 24 and 30 months; and costs in the amount of \$9,972.45.

- #2. Jeremiah J. Walker, P.E.
PE 40276
DOAH Case Number 05-1189PL
FEMC Case Number 03-0168
Represented by Pamela A. Moine, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Walker was present and represented by his counsel, Pamela A. Moine, Esquire.

Mr. Walker has been charged by Amended Administrative Complaint with negligence in the practice of engineering relating to a Potable Water System project consisting of a demolition and replacement of portions of the two main access roads onto and off the U.S. Air Force Base, Hurlburt Field; Cody Road and Independence Road. In August 2002, a Certification of Construction Completion for the Potable Water System indicated that the project was complete and in code compliance with minor deviations from the permitted construction plans and specifications, when in fact it was not.

Mr. Walker disputed the facts upon which the Amended Administrative Complaint was based. A formal hearing was conducted on June 29, 2005. By Recommended Order dated September 22, 2005, the Administrative Law Judge concluded Mr. Walker was not negligent in the practice of engineering and recommended that the Board enter a Final Order dismissing the Amended Administrative Complaint against Mr. Walker.

On October 7, 2005, Petitioner FEMC filed exceptions to the Administrative Law Judge's Recommended Order. On October 14, 2005, Respondent Walker filed Respondent's Response to Petitioner's Exceptions to Recommended Order.

Ms. Moine asked that the Board not accept the exceptions filed by Mr. Sunshine.

Mr. Sunshine yielded on Exceptions ##1 and 2 and requested that the remaining exceptions be ruled on separately.

Upon a motion by Mr. Rebane seconded by Dr. Miller, Exceptions ##1 & 2 were denied. Mr. Sunshine argued the remaining exceptions individually.

Upon a motion by Mr. Rebane seconded by Mr. Burke, Exception #3 was accepted.

Mr. Rebane asked that Exception #4 be separated into two parts. The first part of the exception dealt with Mr. Mallet's qualifications. In addition, there was an argument regarding whether military rules overrode state laws.

Upon a motion by Mr. Rebane seconded by Mr. Burke, the language in the exception referring to Mr. Mallet's qualifications was accepted. Upon a motion by Mr. Rebane seconded by Dr. Miller, language referring to military rules overruling state law was not accepted.

Upon a motion by Mr. Rebane seconded by Dr. Miller, the Exception to the Conclusions of Law were accepted.

Upon a motion by Mr. Rebane seconded by Dr. Miller, Exception #6 was accepted.

Upon a motion by Mr. Rebane seconded by Mr. Burke, the Board found the Respondent guilty of the one count of negligence.

For imposition of penalty, Mr. Sunshine referred the Board to its disciplinary guidelines as outlined in Rule 61G15-19.004, F.A.C.

Upon a motion by Ms. Velazquez seconded by Mr. Duyos, the Board imposed a penalty consisting of a reprimand, \$1,000 fine, costs of \$3,090.24, two years probation, a board approved course in Professionalism and Ethics and completion of the Board's study guide.

Ms. Moine asked that the Board consider a stay of its Final Order should Mr. Walker decide to appeal.

Upon a motion by Mr. Rebane seconded by Dr. Miller, the request for a stay will be granted should the respondent appeal the Final Order.

R. Settlement Stipulations

- #1. Thomas P. Taylor, P.E.
PE 57875
FEMC Case Number 2004012408
Represented by W. Guy McKenzie, Jr., Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Taylor was not present for his hearing.

Mr. Taylor has been charged by Administrative Complaint with one count of practicing engineering on a delinquent license and one count of offering engineering services to the public through a business organization that do not possess a certification. On March 31, 2003, Mr. Taylor signed, sealed, and submitted five pages of plans for "TBSS Temporary Gabion Wire Wall" on a delinquent license. Furthermore, Mr. Taylor practiced engineering and signed, sealed, and dated the "TBSS Temporary Gabion Wire Wall" plans under T&B Structural Systems, Inc., an engineering firm that did not have a Certificate of Authorization to provide engineering services until on or about May 3, 2004.

Mr. Taylor has entered into a stipulation with FEMC for a reprimand; payment of a \$2,000.00 administrative fine and costs in the amount of \$90.00; he shall successfully complete a Board approved course in Engineering and Professionalism and Ethics; and successfully complete the Board Study Guide.

Upon a motion by Mr. Rebane seconded by Mr. Rivera, the Settlement Stipulation was adopted.

- #2. Edward A. Landers, P.E.
PE 38398
FEMC Case Number 2004038108
Represented by Kevin S. Opolka, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Landers was not present for his hearing.

Mr. Landers has been charged by Administrative Complaint filed February 10, 2005 with one count of negligence and one count of practicing engineering through the use of a business organization that does not possess a Certificate of Authorization. Mr. Landers prepared calculations and structural plans for the Fernandez residence addition that were not acceptable pursuant to proper engineering standards and he signed, sealed, and dated those engineering documents with the title block "Edward A. Landers, P.E., Consulting Engineers" a business organization that does not possess a Certificate of Authorization.

Mr. Landers has entered into a stipulation with FEMC for payment of a \$2,000.00 administrative fine and costs in the amount of \$965.10, probation for two years with terms he successfully complete a Board approved course in Engineering Professionalism and Ethics; plan reviews at 6 and 18 months; and successful completion of the Board Study Guide.

Upon a motion by Mr. Burke seconded by Mr. Rivera, the Settlement Stipulation was adopted.

- #3. Joseph A. De Stefano, P.E.
PE 31937
FEMC Case Number 03-0147
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. De Stefano was not present for his hearing.

Mr. De Stefano has been charged by Administrative Complaint filed August 2, 2005 for aiding or assisting with the unlicensed practice of engineering through the use of a business organization that did not possess a Certificate of Authorization.

Mr. De Stefano has entered into a stipulation with FEMC for payment of a \$1,000.00 administrative fine and costs in the amount of \$626.55; he shall be reprimanded; and he shall successfully complete a Board approved course in Engineering Professionalism and Ethics and the Study Guide.

Upon a motion by Mr. Charland seconded by Ms. Velazquez, the Settlement Stipulation was adopted.

- #4. Rizanur Altan, P.E.
PE 38521
FEMC Case Number 2004029816
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Altan was not present for his hearing.

Mr. Altan has been charged by Administrative Complaint filed on August 2, 2005, with two counts of negligence and one count of practicing or offering engineering services to the public through Turquoise Consulting, Inc, a business organization that does not possess a Certificate of Authorization.

Mr. Altan has entered into a stipulation with FEMC for payment of a \$2,000.00 administrative fine and costs in the amount of \$2,709.90; a reprimand; two years probation with terms that he must successfully complete a Board-approved course in Engineering Professionalism and Ethics and he must successfully complete the Study Guide.

Mr. Rebane had concerns with the lack of charges for practice beyond area of expertise as a result of the electrical/plumbing area of the project.

If he does not evidence expertise to practice in the area of electrical engineering then he should be penalized for practice beyond scope of competency.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, the Settlement Stipulation was rejected.

Upon a motion by Mr. Rebane seconded by Mr. Duyos, an appearance of the respondent will be required when the case is returned to the Board for further consideration.

- #5. Randall L. Mosby, P.E.
PE 22326
FEMC Case Number 2005004466
Represented by H. Randall Brennan, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Mosby's counsel had requested a continuance to the February Board meeting. After discussion, the following action was taken.

Upon a motion by Ms. Velazquez seconded by Dr. Bauer, this case was continued to the February Board meeting.

- #6. Stephen R. Walsh, P.E.
PE 33915
FEMC Case Number 2004026176
Probable Cause Panel: Matthews, Tomasino, Seckinger

Mr. Walsh was present for his hearing and was sworn prior to addressing the Board.

Mr. Walsh has been charged by Administrative Complaint for signing and sealing drawings for an Aquazul by the Sea Balcony for M.C. Velar Construction, which were not prepared by him or prepared under his responsible supervision, direction, or control. Mr. Walsh's balcony drawings are identical to the drawings signed and sealed by another Professional Engineer, except for the engineer of record's title block that appears at the bottom of the drawings.

Mr. Walsh has entered into a stipulation with FEMC for \$1,000.00 administrative fine and costs of \$1,301.34; he agreed to appear before the Board to explain his understanding of plan stamping and responsible charge relevant to doing calculations and prudent design; Mr. Walsh agrees to a reprimand; he shall be placed probation for one year with terms he successfully complete a Board approved course in Engineering and Professionalism and Ethics; and successfully complete the Study Guide.

Mr. Walsh addressed the board to confirm his understanding of plans stamping. He now realized that if he had made corrections to the plans and then signed and sealed the plans, the appearance of plan stamping may not have occurred. The project dealt with a number of balcony repairs for

a large project. Mr. Walsh had signed and sealed the plans without following the requirements of the adoption rule.

Mr. Walsh explained that plans were transmitted electronically. The plans were printed and signed and sealed. In the future, the only way to proceed in his situation is to redraw the plans in house and not accept the electronic version of the plans from other parties.

Upon a motion by Ms. Velazquez seconded by Mr. Rebane, the Settlement Stipulation was adopted.

T. Adjourn

Prior to adjournment, Mr. Martin announced that he would e-mail a number of dates for consideration of rescheduling the Education Task Force meeting and for scheduling a board member training workshop.