

**Minutes of
The Florida Board of Professional Engineers
December 6 & 7, 2006
Beginning at 8:30 a.m., or soon thereafter
Tallahassee, Florida
Part I**

A. Meeting Administration

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

The Chair gave the Invocation and led the Pledge of Allegiance.

- #2. Roll call, Determination of Quorum, and Address Absences.

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

Board Members Present:

Henn Rebane, Chair, P.E.
John Burke, Vice Chair, P.E.
Robert Matthews, P.E.
Paul Tomasino, P.E.
Albert Rose, P.E.
Chris Bauer, Ph.D., P.E.
David Bloomquist, Ph.D., P.E.
Kathy Hogenkamp, P.E.
Nola Garcia, Public Member

Board Members Absent:

Daniel Rivera, Public Member
David Charland, P.E.

The Chair asked if Mr. Rivera and Mr. Charland had notified the Board office of the reason for their absence. Mr. Martin advised Mr. Rivera had a business obligation and Mr. Charland indicated in the last meeting he would be unable to attend.

Upon a motion by Mr. Matthews seconded by Mr. Burke, the Board determined these were unexcused absences for Mr. Charland and Mr. Rivera.

FBPE Staff Present:

Paul J. Martin, Esquire, Executive Director
Carrie A. Flynn, Assistant Executive Director
Marvin Vickers, FEMC Comptroller
Patrick Creehan, Esquire, Chief Prosecuting Attorney (Second day only)
Leigh Ann Dollar, Executive Assistant

Board Counsel: Lee Ann Gustafson, Senior Assistant Attorney General

Guests:

Frank Rudd, Executive Director, FES
Bill Palm, P.E.
Charlie Geer, PE, FES/FICE FBPE Liaison
Janice Scott, Esquire, DOT
Brenda Grice, Esquire, DOT
Lowell Clary, Assistant Secretary, DOT
George Leveritt, P.E.
Fred Crawford, Florida Transportation Institute
Mel Anderson, P.E., Ph.D., FEMC Board
John Springstead, P.E., FEMC Board
Rex Ware, Esquire, Florida Alliance of Contractors
Fred Dudley, Esquire, Aluminum Association of Florida
Al Seckinger, P.E., FBPE PCP Consultant

#4. Approval of the Agenda

Ms. Flynn announced that Mr. Fred Crawford was requesting time to address the Board. The Chair announced that he would like to amend the agenda to allow discussion of the aluminum structures and Petition for FDOT as the first items of business. Mr. Martin asked for additional time to make copies of information pertinent to the Aluminum Structures Rule.

Ms. Dollar added Item D#6 to the agenda to report on the Public Hearing on Rule 61G15-22.0105, F.A.C.

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

Items withdrawn from the Consent Agenda were #B6b and #B11a.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the Consent Agenda as approved, as amended.

- #6. Review and Approval of previous Board meeting minutes
 - a. Minutes from the October 25 & 26, 2006 Board Meeting*
Approved by Consent Agenda.
 - b. Minutes from the December 1, 2006 Conference Call*
Approved by 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. Committee Chair's Report.

The next Application Committee review is scheduled for January 17, 2007. Staff anticipates a large number of files as this will be the final review for applicants seeking approval to sit for the April 2007 examinations. All board members present indicated their attendance for the review.

 - #2. Educational Advisory Committee
(Christian Bauer, Ph.D., P.E., Chair; David Bloomquist, Ph.D., P.E.; Melvin Anderson, Ph.D., P.E. (Consultant), R. Gerry Miller, Ph.D., P.E. (Consultant))
 - a. Committee Chair's Report.

The Committee was to work with FES on the distribution of the NSPE CD. Dr. Bauer reported that FES has distributed the NSPE CD to all FES chapters.

Mr. Rebane asked about the Committee's plans to move forward with presentations to students as part of a program to encourage applications for the fundamentals examination. He encouraged the committee to move forward on this plan.

 - #3. Probable Cause Panel
(Robert Matthews, P.E., Chair; John Burke, P.E.; Allen Seckinger, P.E., Consultant)
 - a. Memo from the November 16, 2006 Meeting*

Approved by Consent Agenda.

The minutes should reflect the removal of Mr. Burke's name and the addition of Ms. Hogenkamp.

- #4. FBPE Rules Committee
(Henn Rebane, P.E., Chair; John Burke, P.E.; David Charland, P.E., David Bloomquist, Ph.D., P.E.; Paul Tomasino, P.E.)

- a. Committee Chair's Report.

The next meeting of the Rules Committee is scheduled for January 16, 2007. The Committee members present confirmed their plans to attend.

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

- a. Committee Chair's Report.

No report at this time.

- #6. Board Operations Committee
(Henn Rebane, P.E., Chair, FBPE, FBPE/FEMC Liaison)

- a. Committee Chair's Report.

- b. Minutes from the November 16, 2006 Meeting.

The FEMC Board accepted the recommendation from the Board Operations Committee to award the Management Efficiency Study contract to Ms. Anne Browning's firm.

A draft copy of the final report is due to be distributed at the April Board meeting.

Dr. Anderson reported that there will be bi-weekly telephone conference calls to ensure the progress of the Management Efficiency Study. Dr. Anderson was elected to represent the FEMC Board and that the FBPE Board should elect a member to serve as the liaison. Dr. Anderson, Mr. Rebane, Mr. Martin and Ms. Browning would be participating in the bi-weekly conference calls.

Upon a motion by Dr. Bauer seconded by Mr. Rose, the Board elected Mr. Rebane as the liaison for the Management Efficiency Study.

Dr. Anderson advised the Board that the Contract will have several amendments, one being travel expenses that will be adjusted to appear in the final contract.

Mr. Matthews requested that a draft copy of the FEMC 2007-2008 contract with the Department be presented at the April Board meeting. Mr. Rebane encouraged staff that all effort should be made to begin the annual contract negotiations at the April meeting and definitely prior to the June meeting. Mr. Rebane suggested language for five-year contract be included. Mr. Matthews asked to have a copy of the current contract be placed on the February agenda to allow each Board member time to review the contract for recommended changes.

Mr. Matthews advised that a copy of the legal protocols be added to the January PCP agenda.

Mr. Martin gave an update to the Board on renewal.

Mr. Rebane clarified, for the record, the misunderstanding that Providers send in data on attendee's behalf. Each licensee's record must be updated as a part of the on-line renewal or submission of the renewal form to the Board. The biggest issue with renewal has been pin numbers. The Board cannot assign a pin number, the licensee has to contact the Department's Call Center.

Mr. Rebane advised the Board that the FEMC Board approved paying all expenses for the Board Chair to attend the FES annual meeting.

Mr. Rebane also advised the Board that FEMC approved to pay former Board members who are serving as consultants a standard consultant fee of \$75 per hour not to exceed \$750 per day.

Upon a motion by Dr. Bloomquist seconded by Mr. Tomasino, the Board approved the payment of \$75 per hour not to exceed \$750 per day.

Upon a motion by Mr. Matthews seconded by Dr. Bauer, the Board adopted the Board Operations Minutes.

- #7. FBPE Legislative Committee
(Daniel Rivera, Chair, Christian Bauer, Ph.D., P.E.; David Bloomquist, Ph.D., P.E., Katherine Hogenkamp, P.E., Paul Tomasino, P.E.)
 - a. Committee Chair's Report.

Mr. Rebane asked Mr. Martin to advise Mr. Rivera on two proposed legislative changes. One, to amend Chapter 471, F.S. to require an EAC/ABET degree and two, to amend Chapter 471, F.S. to authorize assessment of fees for approval of programs.

The Chair noted these items do not have a high priority and if FES does not want to pursue changes to 471, F.S. these items alone would not be a basis for opening the statute to amendments.

- #8. Unlicensed Activity Committee
(Christian Bauer, Ph.D., P.E., Chair; David Bloomquist, Ph.D., P.E.; John Burke, P.E., Katherine Hogenkamp, P.E.)
 - a. Committee Chair's Report.

As instructed in the last meeting this committee is no longer needed. The objectives of the Unlicensed Activity Committee will be completed under the Educational Advisory Committee. The Chair asked this Committee to present a report in each meeting to keep the Board apprised of the goals and objectives in promoting licensure through presentations to engineering students.

- #9. Endorsement Committee
(Robert Matthews, Chair; David Charland, P.E.; Henn Rebane, P.E.; John Burke, P.E., Al Rose, P.E.)
 - a. Committee Chair's Report.

There were no endorsement applications for review as part of this meeting. Several Principles and Practice applications would be reviewed due to overlooking the approval of experience along with education.

- #10. Record Drawing Task Force (Paul Tomasino, P.E., Chair; David Charland, P.E.; John Burke, P.E.)
 - a. Committee Chair's Report.

Mr. Tomasino asked for a committee meeting on January 16, 2007.

- #11. Aluminum Structures Design Manuals Task Force (David Charland, P.E., Chair; Paul Tomasino, P.E., Robert Matthews, P.E., Albert Rose, P.E., Do Kim, P.E.)
 - a. Minutes from the November 14, 2006 Meeting.

b. Proposed Rule.

Mr. Martin briefed the Board on actions resulting in two proposed rules. At the November meeting, three versions of a proposed rule were reviewed. The Committee assigned one version of the rule to the Master Plans Committee as the content of the rule deals with As-Builts. The two remaining versions reviewed were rules that speak directly to site specific design of aluminum structures.

Mr. Matthews was concerned with the omission in the minutes of his recommendation that Master Plan Design Manuals contain complete Master Design Systems, not parts and pieces taken by the contractor to arrive at a final design package.

Mr. Rebane called for discussion regarding the versions of the aluminum structures that is before the Board. He believed aluminum failures have close nexus to lack of site specific design in aluminum structures. He recalled discussion on whether this Board should even be involved in establishing a rule on master file design for aluminum structures.

Mr. Martin believed this Board was responding to a need to establish guidelines for Professional Engineers who design aluminum structures manuals and the content of such manuals.

Mr. Seckinger commented on problems with the use of master file systems as the content of the manual is not specific enough to the materials used in designing the systems. He supported the rule development.

The proposed rule was re-assigned from the Master Plans Committee to the Rules Committee.

The two versions of the rule addressing specific design of aluminum structures were considered and the Committee accepted Mr. Kissell's proposed rule as rewritten by Mr. Kim. This version is now before the Board as Items #1 and #2. Item #1 is Mr. Kim's version with modifications made in the Committee meeting. Item #2 is Mr. Martin's version with changes resulting from discussion with Mr. Kissell. The recommended changes to Item#2 is transfer of section (e) under (3) "Calculations showing the maximum stress, allowable stress, and span to deflection ratio for each structural component type, and calculation showing the maximum force and allowable force for each connection.". With this change the information becomes part of the engineering documents rather than (3) as support documents.

Fred Dudley representing the Aluminum Association of Florida addressed the Board regarding his concerns with the proposed rule by Mr. Kissell who designs proprietary software that is used in performing the calculations referenced in section (3)(e).

The consensus of the Board is the rule does not place a requirement to use any proprietary software and Mr. Dudley should inform his constituents of the Board's position.

Mr. Dudley presented his second item of concern. This is a new concern with a rule that exceeds the building code requirements for design of screen enclosures. Mr. Dudley presented a copy of the building code.

It was the consensus of the Board that the rule does not affect requirements of the Building Code.

Upon a motion by Mr. Matthews seconded by Mr. Burke, Item #2 was adopted for rule development.

Mr. Ware voiced concern with procedural issues. He was concerned with the noticing of the meetings, the title of the committee and the result of proposed rules.

Ms. Gustafson advised Mr. Ware of the procedures for rule development once the Board votes on the proposed rule. To clarify any misunderstandings, she would research the need to re-notice this as rule development.

Mr. George Leveritt submitted an additional amendment to Item #2 that would transfer section (3)(d) to section (2)(e). Mr. Leveritt explained the basis for his recommendation.

Mr. Matthews accepted the amendment to his motion and Mr. Burke as second accepted the amendment to transfer section (3)(d) "The location and magnitude of the structure's reactions for each load case" to (2)(e).

Upon a motion by Dr. Bloomquist seconded by Dr. Bauer, Ms. Gustafson was directed to initiate rule development.

Ms. Gustafson stated she would begin the process of noticing for rule development to clear up any misunderstandings as the process applicable to rulemaking.

#12. Joint Committee of the Florida Board of Professional Engineers and Board of Landscape Architects (Robert Matthews, P.E., Chair; Paul Tomasino, P.E.; David Bloomquist, Ph.D., P.E.)

a. Committee Chair's Report.

Mr. Martin wrote a letter to Juanita Chastain, Executive Director of the Board of Landscape Architects, regarding the FBPE Board and the Board of Landscape Architects need to create a joint committee of the two Boards. To date he has not received a response. Their Board meets quarterly and may not have had an opportunity address the issue yet.

Mr. Geer expressed urgency as DOT is now in rulemaking on storm water design. There is nothing on record to voice concerns with allowing landscape architects performing drainage design. The DEP has nothing on record from this Board regarding concerns with the opinion issued.

The Board suggested Mr. Rudd advise DOT of the efforts of this Board to establish a joint committee to discuss the issue.

Mr. Rebane asked for alternatives should the Landscape Architect Board decline to establish a Joint Committee. The alternative is to submit a letter to the Secretary of the Department requesting their intervention in appointing a Joint committee of the respective boards.

Ms. Gustafson explained the Board's lack of authority to argue scope of license. The FBPE cannot be directly involved and the matter would have to be addressed by FES. Mr. Geer believed this board should be involved based in the agreement negotiated in the 1980's. Ms. Gustafson suggested the board write a letter to DEP stating failure to follow the agreement reached in the 1980's poses a danger to the life, health and safety of the public.

Upon a motion by Mr. Matthews seconded by Dr. Bloomquist, a letter from Ms. Gustafson, will be forwarded to the Secretary of the Department of Environmental Protection, the Secretary of the Department of Business and Professional Regulation and all water management districts expressing severe concerns with life, health, safety and welfare of the public should Landscape Architects be allowed to perform drainage design.

Mr. Rebane asked for the record to show Ms. Gustafson's assignment to meet with Roy Young, General Counsel of FES.

Ms. Gustafson was concerned with allegation that the Landscape Architect's Board Counsel had overstepped her authority in issuing the opinion letter. If FES has a problem they should contact Ms. Cathy Lannon at the Office of the Attorney General regarding the problem.

Mr. Matthews noted Mr. Kuhl's offer to serve on the committee should it be necessary.

The Chair directed staff to correct the Committee composition. Mr. Matthews is on the committee not Mr. Charland.

C. NCEES

#1. Exchange October 2006*

Approved by Consent Agenda.

#2. Letter from Eva-Angela Adan, Director, Center for Professional Engineering Education Services*

Approved by Consent Agenda.

#3. Memo from Betsy Browne dated November 15, 2006*

Approved by Consent Agenda.

#4. Memo from Chuck Wallace dated November 15, 2006*

Approved by Consent Agenda.

#5. Memo from Betsy Browne dated November 1, 2006*

Approved by Consent Agenda.

#6. Publication from Center for Professional Engineering Education Services*

Approved by Consent Agenda.

#7. Zone Update, November 2006*

Approved by Consent Agenda.

#8. Memo from Louis A. Raimondi, dated November 28, 2006

D. Advisory Attorney's Report

#1. Rules Report - (This item will be presented on the second day)

Rule Number	Title	Develop. Published	Notice Published	Adopted	Effective
61G15-20.006	Educational Requirements	9-23-05	7-28-06	(JAPC hold ltr 8-10-06)	
61G15-21.007	Re-examination	7-21-06	8-11-06	(JAPC hold ltr 9-28-06)	
61G15-22.0105	Standard for Laws & Rules Course Providers	5-20-05	8-4-06	(On hold for 11-3-06 hearing results)	
61G15-30	Aluminum Structures	7-28-06		(Waiting on approved text)	
61G15-31	Aluminum Structures	7-28-06		(Waiting on approved text)	
61G15-20.007	Foreign Degrees	11-24-06 tentative			
61G15-22.011	Board Approval of CE Providers	11-24-06 tentative			

#2. Petition for Variance and Waiver from the Department of Transportation

Ms. Scott briefed the Board on the basis for filing this Petition for Variance and Waiver. The FDOT submitted their application for provider status and included curriculum for both area of practice and laws and rules. They failed to indicate on the application form approval for both area of practice and laws and rules. When receiving their approval, they assumed it covered both area of practice and laws and rules. When some 300 engineers began to enter their courses they were advised of the approval for area of practice only. Upon notification of the problem, the FDOT filed a Petition for Variance and Waiver and they requested consideration to resolve the matter through an Informal process based on a determination of a scrivener's error.

Mr. Martin gave background on FDOT having previously exercised this process in September of 2005 based on failure to file their application for provider status approval in a timely fashion. The Board granted the Petition for Variance and Waiver and presently FDOT failed to properly complete the application. One year later FDOT submitted an application that was not properly completed.

Ms. Scott explained the first petition was based on failure to file the application timely. This petition relates to having failed to check all of the required items on the application.

Based on the length of time since the application was approved, Ms. Gustafson advised that the matter should proceed as a Petition for Variance and Waiver and Ms. Gustafson believed the petition meets requirements for acting favorably on the petition.

Mr. Lowell Clary, Assistant Secretary of FDOT addressed the board on trying to clear the issue for the 300 engineers who took courses during the time approval was not record. He appreciated any consideration the Board might give to resolving the situation.

Upon a motion by Mr. Matthews seconded by Dr. Bloomquist, the Board approved the Petition for Variance and Waiver pursuant to Rule 61G15-22.011(3)(b), F.A.C.

#3. Letter to JAPC and response from JAPC

Ms. Gustafson is still in discussion with Mr. Harrold regarding authority to require a "C" or higher on courses that are taken if the applicant fails the examination three times.

Ms. Gustafson asked the Board to reaffirm their direction on this matter.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, Ms. Gustafson should proceed with rulemaking.

#4. Notice of change to Rule 61G15-20.006, F.A.C.

For informational purposes only.

#5. Report on Public Hearing held Nov. 3, 2006 re: Rule 61G15-22.0105, F.A.C.

Mr. Burke briefed the Board on the discussions from the public hearing and changes to the proposed rule. There were concerns that attending the second day of the Board meeting and receiving credit for laws and rules is not equal to taking a course in laws and rules from a provider. Mr. Burke countered that in these hearings, Board Members are sufficiently covering laws and rules. There is also concern with providers being able to stay up to date on rule amendments.

Mr. Barton thought it was restrictive to let only P.E.'s and Lawyers teach the courses, however; after the meeting he had a change in position.

Mr. Martin believed the rule title should be amended

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, Ms. Gustafson would notice the title change.

- #6. Board Counsel Opinion Letters
 - a. Board counsel's Report.
- E. Executive Director's Report
 - #1. List of Applicants Requesting Retired Status*

Approved by Consent Agenda.
 - #2. Board Member and Executive Director Task List

Mr. Martin reviewed the Task List to ensure that tasks are being completed.

Mr. Rebane requested that copies of letters that are generated from the task list are distributed to Board members. He also requested that a new copy of the 2007 Board calendar be distributed that includes Board meetings, times, locations and examination dates and locations. Mr. Tomasino suggested that the Task List be available two weeks prior to the Board meeting, reminding members of their assignments.

Ms. Gustafson noted all tasks under her name are completed.
 - #3. Efficiency Report Proposal from Browning Consulting, LLC

Mr. Martin advised the Board of receiving notice of Ms. Browning's mother having passed away and this may impact finalizing the contract for the Management Efficiency Study.
 - #4. Revised approved Budget Transfer 2006-2007

Mr. Vickers discussed the inclusion of funds for the Management Efficiency Study. Prior to closing the 05-06 budget, a transfer was made and granted to pay for the purchase of computers and software for paperless meetings.

Mr. Vickers advised the board that the Department approved the budget transfer to cover the costs associated with the Management Efficiency Study.
 - #5. Financial Reports

For informational purposes only.
 - #6. Discuss compensating former Board Members consulting fees.

A new line item will be added for this issue.

F. Chief Prosecutor's Report

#1. Non-Compliance Report

Mr. Martin presented this report to the Board due to the fact that Mr. Creehan was out due to the birth of his second child. He will be present for the disciplinary cases tomorrow.

The Board had asked for copies of the report applicable to probationers that failed to comply with of the terms of Final Orders.

#2. December Open Case Report

Mr. Rebane was concerned that the December case report indicates more than 300 open cases. With the processing of 10 cases per meeting the backlog would take five years to conclude.

Mr. Martin explained problems with setting parameters in LicenseEase and possible misrepresentation on the total number of complaints.

Mr. Rebane advised the Board that in the FEMC Board meeting, it was discussed to hire outside counsel to assist in prosecuting cases.

Mr. Martin advised that cases are continuing to move through the process even though some have dates of filing in 2004.

G. Chair's Report

#1. Nominations for the FBPE Chair and Vice Chair for 2007

Mr. Burke reported the recommendation of the Nominations Committee for the two positions to the FEMC Board. Dr. Anderson and Kamal Al-Imam have expiring terms. The committee recommends the reappointment of Dr. Anderson. Mr. Kuhl was elected as FEMC Chair for 2007 and Bob Lombardo, a Professional Engineer recommended by FES, who has been involved many years with FICE and FES and has his own business dedicated to engineering.

Upon a motion by Dr. Bloomquist seconded by Mr. Matthews, the officers from the Nominations Committee were accepted.

Mr. Martin announced the election of Gary Kuhl, as Chair and Roger Jeffery as Vice Chair of FEMC.

Mr. Burke is unsure as to reappointment to the Board and based on this fact the Nomination Committee recommended Mr. Rebane hold the office of Chair for one additional year.

Upon a motion by Mr. Matthews seconded by Dr. Bloomquist, the Nomination Committee recommendation to have Mr. Rebane serve as Chair and Mr. Burke serve as Vice Chair for 2007 were accepted.

#2. Education Council Minutes from the October 31, 2006, conference call*

Approved by Consent Agenda.

H. Correspondence to the Board

#1. Letter from City of Boca Raton dated November 9, 2006

For informational purposes only.

I. Old Business

J. New Business

Mr. Fred Crawford of the Florida Transportation Institute asked the Board to consider awarding credits to engineers that took the course prior to the approval of his Continuing Education Provider Application.

The Board advised Mr. Crawford of the process that allows for filing a Petition for Variance and Waiver. Mr. Crawford would have to file a Petition for Variance and Waiver. Board Counsel will review the petition and publish in the Administrative Weekly. The Board will then act on the petition in a noticed Board meeting.

The problem Mr. Crawford is experiencing is courses completed by attendees prior to approval of his application for provider status. Mr. Crawford called attention to rule that allows credit to attendees when approval is not in place. Mr. Rebane advised Mr. Crawford the referenced rule applies to providers who violate the rules applicable to provider status. Mr. Crawford was advised to contact Ms. Gustafson.

Dr. Bauer advised his concern about the backlog of disciplinary cases and cases outstanding for four years or more. He did not understand reluctance to hire necessary personnel to expedite the processing of outstanding cases.

Mr. Rebane stated that FEMC is obligated to provide support to the Board. This Board should not dictate how the workload is accomplished; although, he shared concerns presented. Mr. Rebane asked Dr. Bauer to work with Dr. Bloomquist to develop a chart reflecting the curve in processing of disciplinary cases.

Dr. Bauer suggested engaging an engineer to work with FEMC in analyzing the cases. This would allow immediate decisions on cases that should be processed immediately.

Prior to adjournment, the Application Committee presented a recommendation to approve two and deny three applications for the Principles and Practice examination for insufficient experience.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the Board ratified the recommendations of the Application Committee.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the Board approved for licensure by endorsement the application filed by Mr. Francisco Salridago.

K. Public Forum

Part II Informal Hearing Agenda

Mr. Rebane gave opening remarks regarding ability to complete continuing education on laws and rules by attendance at Board meetings. Mr. Rebane advised that licenses will expire on February 28, 2007 unless renewed. Mr. Rebane called attention to the instructions provided with the renewal notice and the requirement of securing a pin number to complete renewal online. He encouraged all attending to exercise the online renewal process as the most expedient method of renewal.

The Chair confirmed appointment of Ms. Kathy Hogenkamp to the Probable Cause Panel, the position previously held by Mr. Burke. Mr. Burke will now be Chair of the Rules Committee. Mr. Rebane announced the Board's intent to move forward with rulemaking on design of aluminum structures. Anyone having an interest in this rule should monitor the progress of the rulemaking process. The Chair advised the audience of the paperless agenda format.

Ms. Gustafson gave the rules report and the steps of rulemaking.

L. Consideration of Petition for Formal Hearing

#1. Peter Rizov

Mr. Rizov was present for his hearing. Mr. Rizov applied to sit for the Principles & Practice Examination. His application was denied based on experience. Mr. Rizov failed to evidence four years of acceptable engineering experience at the time of application, per Rule 61G15-20.002, F.A.C.

Mr. Rizov submitted an Election of Rights form to have a formal hearing. Board Counsel reviewed the file and directed staff to place this Petition for Formal Hearing on the December agenda. Ms. Gustafson recommended the Board deny the petition and the matter proceed as an Informal Hearing before the Board

In addition to the ongoing hearing, Mr. Rizov had filed a Petition for Variance and Waiver. This petition could not be discussed because the publication in Administrative Weekly has not run for the required time period. This item will appear on the January telephone conference call agenda. Ms. Gustafson suggested the Petition and Informal Hearing be addressed at the same time. If the Board does not grant the Petition for Variance and Waiver he would have his for Informal Hearing.

Upon a motion by Mr. Burke seconded by Mr. Matthews, the Petition for Formal Hearing was denied and the matter would proceed as an Informal Hearing at the January conference call meeting.

#2. Srinivas Meka

Mr. Meka was not present for his hearing.

Mr. Meka applied to sit for the Principles & Practice Examination. His application was denied based on experience. The Board awarded one of experience for the MS degree. The Board did not award full credit for experience from July 2002 through 2005. Based on this determination, Mr. Meka failed to evidence three years of acceptable engineering experience at the time of application, per Rule 61G15-20.002, F.A.C.

Mr. Meka submitted an Election of Rights form to have a formal hearing. Board Counsel reviewed the file and directed staff to place this Petition for consideration on the December agenda.

Ms. Gustafson recommended the Board deny the petition and that the matter proceed as an Informal Hearing before the Board.

Upon a motion by Dr. Bloomquist seconded by Dr. Bauer, the Petition for Formal Hearing was denied and the matter proceeded as an Informal Hearing.

Upon a motion by Mr. Burke seconded by Ms. Hogenkamp, the denial was upheld.

#3. George Whalen, Jr.

Mr. Whelan withdrew his request for a hearing.

#4. Anatole Michnevich

Mr. Michnevich was not present for his hearing. Mr. Michnevich was licensed in New York in 1990 based on passing the Fundamentals and Principles and Practice examinations in New York, evidence of four years of engineering experience and acceptance of his BS in Civil Engineering from Belarussian State.

The basis for denial is education. Mr. Michnevich holds a Bachelor of Science Degree in Civil Engineering from the Belarussian State Polytechnic Academy granted in 1971. The Educational Advisory Committee reviewed the transcript evaluation to determine substantial equivalency to Rule 61G15-20.007, F.A.C. Although the Board determined that Mr. Michnevich evidenced the required overall number of hours in mathematics and basic sciences, he has not evidenced a course in Probability and Statistics. Mr. Michnevich submitted an Election of Rights to supplement and to have a Formal Hearing. The supplemental information did not satisfy the deficiencies and the denial was upheld. Board Counsel reviewed the file and directed staff to place this Petition for

Formal Hearing on the December agenda. Board Counsel recommended the Board deny the petition and that the matter proceed as an Informal Hearing before the Board.

Upon a motion by Mr. Tomasino seconded by Dr. Bloomquist, the Petition for Formal Hearing was denied and the matter proceeded as an Informal Hearing.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the denial was upheld.

M. Informal Hearings on Denial of Application for Fundamentals Examination

#1. Diniester Marcelo

Mr. Marcelo was not present for his hearing. Mr. Marcelo applied for the Fundamentals examination and was denied based on education. Mr. Marcelo received a Bachelor's Degree from Cuba. In reviewing his transcript evaluation, the Board determined that he was deficient 4 semester credit hours in Humanities and Social Sciences and 4.5 semester credit hours in Mathematics and Basic Sciences.

Mr. Marcelo submitted his Election of Rights, electing to supplement his application and to have a Formal Hearing. The supplemental information did not satisfy the deficiencies and the denial was upheld. Board Counsel reviewed the file and directed staff to place this Petition for Formal Hearing on the December agenda. Board Counsel will recommend the Board deny the petition and that the matter proceed as an Informal Hearing before the Board.

Upon a motion by Mr. Burke seconded by Mr. Matthews, the Petition for Formal Hearing was denied and the matter proceeded as an Informal Hearing.

Upon a motion by Ms. Hogenkamp seconded by Mr. Rose, the denial was upheld.

N. Informal Hearings on Denial of Application for Principals and Practice Examination

#1. Cara Annette Smith

Ms. Smith was present for her hearing. Ms. Smith was sworn prior to addressing the Board. Ms. Smith was denied for having a record of failing the examination three times. Ms. Smith has a record of filing the examination three times and filed to satisfy the requirements of Section 471.013(1) (e), Florida Statutes, and Rule 61G15-21.007, F.A.C. that

requires evidence of completion of twelve college credit hours of college level courses in the applicant's area of deficiency.

Ms. Smith submitted an Election of Rights form to proceed directly to an Informal Hearing. Ms. Smith is requesting consideration of extenuating circumstances that contributed to her failure of the October 2005 exam. The Informal Hearing will proceed in the December Board meeting.

Extenuating circumstances was due to workload in her employment with Florida Power and Light and the tremendous workload assigned during the hurricanes.

Ms. Gustafson explained the Board could not waive a statutory requirement.

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

In discussion it was explained that applicants can choose to show or not show for the examination. Ms. Smith indicated staff had advised her incorrectly.

The Board suggested staff place a note on website clarifying the fact that failing to show for an examination does not count as a failure count.

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

#1. Steven Zebich

Mr. Zebich was present for his hearing. Mr. Zebich was licensed in Illinois in 1992 based on passing the Fundamentals and the Principles and Practice examinations, acceptance of his BS in Architecture from the University of Illinois and evidence of engineering experience. The application was denied for educational deficiencies. Mr. Zebich holds a Bachelor of Science in Architecture from the University of Illinois at Chicago and a Masters Degree in Civil Engineering from Northwestern University. It was determined that he was deficient in Mathematics and Basic Sciences as he failed to evidence a course in Probability and Statistics and he failed to evidence 48 semester credit hours of Engineering Science and Design.

Mr. Zebich submitted an Election of Rights to supplement and to have an Informal Hearing. The supplemental information consisted of a request for recognition of courses from his architectural degree as satisfying Engineering Sciences and Design and recognition of a course entitled Probabilities Analysis of Creep Shrinkage Data in Concrete as satisfying the Probability and Statistics course. The Board did not accept the supplement and upheld the denial. Mr. Zebich submitted supplemental

information that was accepted for clearing the deficiency of Probability and Statistics.

Upon a motion by Dr. Bloomquist seconded by Dr. Bauer, the course for Probability and Statistics was considered satisfied.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the applicant was approved for licensure by endorsement based on a determination that all educational deficiencies were satisfied.

#2. Seyed Haider Raza Zaidi

Mr. Zaidi was not present for his hearing. Mr. Zaidi was licensed in Texas in 2003, based on passing the Fundamentals and the Principles and Practice examination in Texas, acceptance of his education, and verification of four years of experience.

The basis for denial of Mr. Zaidi's application is educational deficiencies. Mr. Zaidi holds a Bachelor of Science Degree in Civil Engineering from the National NED University of Engineering and Technology in Pakistan awarded in 1984. Review of the transcript evaluation determined Mr. Zaidi was deficient 1.75 semester credit hours in Mathematics and Basic Sciences and he failed to evidence a second course of study in chemistry or calculus-based physics.

Mr. Zaidi submitted an Election of Rights to supplement and to have an Informal Hearing. The Board reviewed the supplemental information and determined while evidencing the 32 hours in Mathematics and Basic Sciences Mr. Zaidi did not evidence a second level course of study in chemistry or physics.

Upon a motion by Dr. Bauer seconded by Dr. Bloomquist, the denial was upheld.

#3. David Y. Chang

Mr. Chang was requesting a second continuance, therefore, the request for continuance was denied and the denial of the application was upheld.

#4. Dr. Michael W. Sweeney

Mr. Sweeney submitted a written notice to withdraw his request for hearing. He will file an application when he can satisfy the educational deficiencies.

P. Special Inspector Applications

None.

Part III
Disciplinary and Unlicensed Hearings

Mr. Burke was recused from Q1 and Q2, he therefore assumed the position of Chair to allow Mr. Rebane an opportunity to participate in the hearings.

Q. Settlement Stipulations

- #1. Alfredo M. Carbonell, P.E.
PE 14170
FEMC Case Number 2004052898
Represented by Pedro J. Martinez-Fraga, Esquire
Probable Cause Panel: Matthews, Burke, Seckinger
(See Exhibit Q#1)

Mr. Carbonell was not present and was not represented by counsel.

Mr. Carbonell has been charged by an Administrative Complaint with four counts of negligence in the practice of engineering for designing a two-story new addition for an existing home. The design contained architectural, structural, electrical, mechanical and plumbing deficiencies.

Mr. Carbonell has entered into a stipulation with FEMC for a \$1,000.00 administrative fine and costs of \$750.00; he shall appear before the Board to explain how he would improve quality control and explain his understanding of the need to sign and seal only accurate plans, or limit his signature as needed; reprimanded; he shall be placed on probation for two years with terms he successfully complete a Board approved course in Engineering Professionalism and Ethics; and submit a list of all projects for Florida properties completed by him within twelve months from the date the Final Order adopting this stipulation is filed.

PCP Recommendation: Reprimand; \$4,000.00 administrative fine (4 cts. @ \$1,000.00 per ct.); costs of \$750.00; 2 yrs probation with plan review at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain how he will improve quality control and explain his competency to practice structural, electrical, mechanical and plumbing disciplines.

Mr. Martin stated that although Mr. Bruce Campbell drafted the stipulation, could Mr. Creehan advise the Board as to why in paragraph three of the stipulated facts, counts two, three and four were stricken. Mr. Creehan told the Board he was not privy to the conversations between Mr. Carbonell and Mr. Campbell before he left. He does not know why Mr. Campbell dropped these counts which correspondingly reduced the administrative fine to \$1,000.00.

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

Mr. Rebane made a motion to table this case and take up information provided for agenda item S#1.

After taking up agenda item S#1, Mr. Rebane asked the Board to work on a counterstipulation. He felt additional charges, including the three counts dropped by Mr. Campbell, should be added to the Administrative Complaint. Mr. Rebane felt the fifth count would be for violating 471.033, Florida Statutes, for practicing architecture. Ms. Gustafson advised the Board that if they amend the Administrative Complaint, the case would have to go back to the Probable Cause Panel for a finding of probable cause. However, they could increase the fine to \$5,000.00 along with the four counts found in the Administrative Complaint based upon the suggestion by Mr. Rebane as the counterstipulation.

Upon a motion by Mr. Rebane seconded by Dr. Bloomquist, the fine is increased to \$5,000.00 as the counterstipulation which incorporates the terms of the original stipulation.

#2. Donald E. Flynn, P.E.

PE 51931

FEMC Case Number 2004012640

Probable Cause Panel: Matthews, Burke, Seckinger

(See Exhibit Q#2)

Mr. Flynn was sworn in prior to addressing the Board.

Mr. Flynn has been charged by an Administrative Complaint with one count of negligence and one count of plan stamping. Mr. Flynn signed, sealed, and dated fire protection drawings for a Walgreen's #7686 project. The fire protection drawings contain deficiencies and were not prepared under Mr. Flynn's supervision, direction, or control.

Mr. Flynn has entered into a stipulation with FEMC for a \$2,000.00 administrative fine and costs of \$273.00; Mr. Flynn agrees to appear before the Board to explain his understanding of the Board's rule relevant to plan stamping and the responsibility rules for design of fire protection systems; reprimanded; placed on probation for two years with terms he submit a list of his fire protection system designs projects completed by him at 6 and 18 month intervals; he shall successfully complete a Board-approved course in Engineering Professionalism and Ethics; and successfully complete the Board's Study Guide.

PCP Recommendation: \$2,000.00 administrative fine (2 cts. @ \$1,000.00 per ct.); costs; an appearance before the Board to explain his

understanding of Board's rules relevant to plan stamping and the responsibility rules for design of fire protection systems; reprimanded; 2 yrs. probation with plan review at 6 and 18 mos. of his fire protection system designs; and Board approved course in Engineering Professionalism and Ethics; and the study guide.

Mr. Flynn indicated that he reviewed plans and calculations, and on occasions he would draft and design on the side. He admitted he was probably doing too many jobs in this instance. Mr. Flynn further attested that he had no knowledge of the deficiencies until approximately two years later when he was made aware of this complaint.

Mr. Flynn indicated that he contracted with an engineering company that provided fire protection services. He said by working with this company and by attending numerous courses and seminars, he learned how to do fire protection designs. Mr. Flynn said he has since ceased from doing this kind of work.

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

Mr. Flynn asked if the fine could be paid in four installments. The Board rejected this request and ordered payment in full within thirty days.

- #3. Kenneth J. Yurkovich, P.E.
PE 57004
FEMC Case Number 2006043143
Probable Cause Panel: N/A
(See Exhibit Q#3)

Mr. Yurkovich was present sworn in prior to addressing the Board.

Mr. Yurkovich has been charged by an Administrative Complaint for failing to submit a Certificate of Completion for a Board approved course in Engineering Professionalism and Ethics, as required by a Final Order of the Board.

Mr. Yurkovich has entered into a stipulation with FEMC for a \$1,000.00 administrative fine; he shall appear before the Board when the stipulation is presented; and his PE license is suspended for six months.

PCP Recommendation: N/A. This case was not presented for PCP review.

Mr. Yurkovich indicated that he is the Register Principal Officer of his firm. He agreed to advise the Board of the alternate qualifier that will take his place while under suspension.

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

R. Defaults

- #1. Joseph D. Hiller, Individually, and
Technicad of Volusia County, Inc.
CA 6169
FEMC Case Numbers 2005045759 and 2005050646
Probable Cause Panel: Matthews, Seckinger, Burke
(See Exhibit R#1)

Mr. Hiller was present sworn in prior to addressing the Board.

Mr. Hiller and Technicad of Volusia County, Inc. have been charged with two counts for practicing engineering without a PE license and a Certificate of Authorization.

On August 21, 2006, an Amended Administrative Complaint was filed and sent to Mr. Hiller by certified mail, along with an Election of Rights form and an Explanation of Rights form. The Return Receipt was signed for by Mr. Hiller and returned to the Board on August 30, 2006.

The Explanation of Rights form advised Mr. Hiller that if he failed to make an election in this matter within twenty-one days from receipt of the Administrative Complaint, his failure to do so may be considered a waiver and the Board may proceed to hear his case. Mr. Hiller failed to request a hearing.

Note: On August 1, 2006, Technicad of Volusia County, Inc. was issued Certificate of Authorization #27093.

The FEMC Prosecutor filed a Motion for Default, which Mr. Hiller failed to submit a response.

PCP Recommendation: Reprimand (Technicad of Volusia County), Inc. and \$1,000.00 administrative fine (Mr. Hiller).

Mr. Creehan asked that the Board accept the material facts alleged in the Administrative Complaint as their material facts, and accept the conclusions of law in the Administrative Complaint as their conclusions of law and waive Mr. Hiller's right to a formal hearing.

Mr. Hiller addressed the Board regarding his Registered Principal Officer for Technicad of Volusia County, Inc., and why he maintained a Certificate of Authorization even though he did not have a PE license. Mr. Hiller indicated that his intention was to pass the structural exam and eventually let the company dissolve. He would obtain a new CA and hire

Mr. Bennett, his former principal officer for Techniad of Volusia County, Inc., as the Registered Principal Officer.

Upon a motion by Mr. Rebane seconded by Ms. Hogenkamp, the Probable Cause Panel's recommendation was adopted.

Mr. Hiller asked if the reprimand would have any affect on him in sitting for the structural exam. Mr. Gustafson advised that this issued would be addressed during the time he submit his application to take the exam.

- #2. Charles M. Rock
Unlicensed
FEMC Case Number 2005057641
Probable Cause Panel: Matthews, Burke, Seckinger
(See Exhibit R#2)

This case was pulled from the agenda.

- #3. Narendra H. Shah
PE N/A
FEMC Case Numbers 2006027076
Probable Cause Panel: Matthews, Burke, Seckinger & Hogenkamp
(See Exhibit R#3)

Mr. Shah was not present and was not represented by counsel.

Mr. Shah submitted a request for continuance.

Upon a motion by Mr. Rebane seconded by Mr. Burke, the request was denied.

Mr. Shah has been charged with one count for practicing engineering on a suspended licensed and one count for advertising services in a manner that is deceptive or misleading when he presented a photocopy of his license that had a current active license to practice engineering when he knew his license was suspended.

On September 22, 2006, an Administrative Complaint was filed and sent to Mr. Shah by certified mail, along with an Election of Rights form and an Explanation of Rights form.

The Explanation of Rights form advised Mr. Shah that if he failed to make an election in this matter within twenty-one days from receipt of the Administrative Complaint, his failure to do so may be considered a waiver and the Board may proceed to hear his case.

Mr. Shah signed the Return Receipt on September 25, 2006. Mr. Shah faxed a response to the Administrative Complaint, but failed to make an

election on the Election of Rights form. Mr. Shah wrote the following on his Election of Rights form “NONE, faxed, no mail follow up, see all encl., 10-10-06, not reqd.” Staff telephoned Mr. Shah regarding his incomplete Election of Rights form. He indicated that he would not make a selection.

The FEMC Prosecutor filed a Motion for Default.

PCP Recommendation: \$10,000.00 administrative fine (\$5,000.00 per count for (2) counts); costs of \$165.00; and revocation of licensure.

Mr. Creehan asked that the Board accept the material facts alleged in the Administrative Complaint as their material facts, and accept the conclusion of law in the Administrative Complaint as their conclusion of law and waive Mr. Hiller’s right to a formal hearing.

Upon a motion by Mr. Rebane seconded by Dr. Bauer, a motion for default was granted and his license was revoked.

S. Appeal Case

- #1. Jose G. Puig, Jr., P.E.
PE 49148
DCA Case Number 3D06-298
DOAH Case Number 04-3983PL
FEMC Case Number 03-0079
Represented by Samuel B. Reiner, II, Esquire
Probable Cause Panel: Matthews, Tomasino, Seckinger
(See Exhibit S#1)

Mr. Puig was sworn in prior to addressing the Board with counsel, Samuel B. Reiner, II.

On January 31, 2006, the Board entered a Final Order against Mr. Puig in FEMC Case Number 03-0079. The order imposed an administrative fine of \$2,000.00 and investigative costs of \$2,527.88, the successful completion of a Board-approved course in Engineering Professionalism and Ethics, and the successful completion of the Board’s Study Guide.

On February 9, 2006, Mr. Puig filed a Notice of Appeal with Agency Clerk and with the Third District Court of Appeal.

On February 27, 2006, Mr. Puig filed Motion for Stay Pending Review. Mr. Puig requested a stay of the enforcement of the Final Order pending the disposition of an appeal.

After numerous motions and briefs, the District Court of Appeal issued an Opinion in this case dated October 18, 2006.

On November 3, 2006, the District Court of Appeal issued a Mandate in accordance with the Opinion of the Court of Appeal filed on October 18, 2006, which reverse and remanded with instructions that the Administrative Law Judge's recommended order be approved.

Adopt the Administrative Law Judge's Recommended Order based upon the facts found and conclusions of law by dismissing the Administrative Complaint.

Upon a motion by Mr. Rebane seconded by Dr. Bloomquist, a motion for dismissal of the Administrative Complaint was granted.

T. Adjourn