

**Minutes for  
The Florida Board of Professional Engineers  
August 6-7, 2008  
Beginning at 8:30 a.m., or soon thereafter  
Naples, Florida  
Part I**

A. Meeting Administration

- #1. Call to Order, Invocation, and Pledge of Allegiance to the Flag
- #2. Roll Call, Determination of Quorum, and Address Absences.

Upon motion by Mr. Charland, seconded by Ms. Garcia, the motion to not excuse the absence of Mr. Henn Rebane, P.E. passes.

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

**Guests:**

Charlie Geer, FES

Mr. Geer welcomed the Board members and staff to the FES/FICE Annual Conference.

Robert E. Mackey, ASCE

Ronald Milmed, P.E., Florida Structural Engineering Association

Tim McConaghy, P.E., Florida Structural Engineering Association

Students from Gulf Coast University – Petitions for Variance & Waiver

Robert J. O'Neill, Professor at Gulf Coast University – Petitions for Variance & Waiver

Mr. Mackey, Mr. McConaghy and Mr. Milmed were present to hear discussion on B+30.

**Presentations at time certain:**

10:00 a.m. Consideration of Petitions for Variance and Waiver

11:00 a.m. Discussion on videotaping disciplinary actions

- #4. Approval of the Agenda

Mr. Burke amended the agenda to include:

10:00 a.m. Dr. O'Neill will address the Board on the Petitions for Variances & Wavier filed by students of FGCC.

11:00 a.m. Mr. Bill Dunn will address the Board on future application for videotaping disciplinary actions for continuing education.

Under Committee Reports, Item #9 was added as Mr. Charland's update on the "Structural Rules Committee.

Under NCEES, Item #1 c. was added to address Appointment of Emeritus Status with NCEES.

Under Executive Director's Report, Item #8 E was added to address a "Proposal for exemption of Continuing Education Credit for new Endorsement Licensees."

Under H. #1, an item was added to address an email from Dennis Barton to Paul Tomasino regarding publication of disciplinary information.

Upon motion by Dr. Bauer, seconded by Mr. Charland, the agenda was adopted as amended.

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

Mr. Burke removed the PCP Memo (B#3a.) from the consent Agenda.

Upon motion by Mr. Charland, seconded by Dr. Earle, the amended consent agenda was approved.

- #6. Review and Approval of previous Board meeting minutes
  - a. Minutes from the June 18-19, 2008 Board Meeting\*  
(Exhibit A#6a)
  - b. Minutes from the July 25, 2008 Conference Call\*  
(Exhibit A#6b)

## B. Committee Reports

- #1. Applications Committee (**Next meeting 9-17-08**)  
(John Burke, P.E., Chair; David Charland, P.E.; Henn Rebane, P.E.; Zafar Hyder, Ph.D., P.E.) (Alternates: Christian Bauer, Ph.D., P.E.; Paul Tomasino, P.E.)

- a. Committee Chair's Report.

Mr. Burke confirmed the need for an application review upon conclusion of Board business.

Mr. Charland confirmed that he would be unable to attend the September application review.

- #2. Educational Advisory Committee (**Next meeting 9-17-08**)  
(Christian Bauer, Ph.D., P.E., Chair; Dr. Jonathan Earle, Ph.D., P.E.; Melvin Anderson, Ph.D., P.E. (Consultant), R. Gerry Miller, Ph.D., P.E. (Consultant))

- a. Committee Chair's Report.

- #3. Probable Cause Panel (**Next meeting 9-16-08**)  
(Henn Rebane, P.E., Chair; Allen Seckinger, P.E., Consultant) (Alternate: John Burke, P.E.)

- a. PCP Memo from July 15, 2008 Meeting

Mr. Burke called attention to a note on the PCP Memo. The note indicates assignment of an item to the Rules Committee. The item is not defined and staff should research and determine what action is appropriate.

- #4. FBPE Rules Committee (**Next meeting 9-16-08**)  
(John Burke, P.E., Chair; Henn Rebane, P.E.; David Charland, P.E., Paul Tomasino, P.E.)

- a. Committee Chair's Report.

Mr. Charland confirmed his attendance at the rules committee meeting scheduled for September 16, 2008 by telephone.

- #5. FBPE Legislative Committee  
(Paul Tomasino, P.E., Chair; Christian Bauer, Ph.D., P.E.; Zafar Hyder, Ph.D., P.E.)

- a. Committee Chair's Report.

Mr. Burke called attention to an email that is being circulated between FES and the Board of Landscape Architects regarding scope of practice. The Board may or may not be involved at this time.

- #6. Joint Engineer/Architect Committee  
(John Burke, P.E., Chair; Zafar Hyder, Ph.D., P.E.)

- a. Committee Chair's Report.

- #7. Standard Detail Drawings Task Force  
(John Burke, P.E., Chair; Paul Tomasino, P.E., Zafar Hyder, Ph.D., P.E.)

a. Committee Chair's Report.

Mr. Burke directed staff to remove this committee from future agendas. With action on the proposed responsible charge rule, this matter should be resolved.

- #8. Nominations Committee – (**Next Nominations occur December 2008**)  
(John Burke, P.E., Chair; David Charland, P.E.)

Mr. Burke appointed Ms. Garcia to take his place on this Committee.

- #9. Structural Rules Committee - (Report by David Charland, P.E., S.I.)

Mr. Charland briefed the Board on his work with the FES committee in rewriting the Structural Responsibility Rules. Work on light gauge framing, aluminum structures and temporary structures is slow due to the nature of the subject. The committee is very close to completing the rules relating to post-tension concrete, steel joists and joist girders. The next conference call is in August. Mr. Charland will give an update in the October Board meeting.

Mr. Burke stressed the need to take all the time necessary in this process and he advised Mr. Charland and Mr. Temple to work with Mr. Flury and Mr. Rimes to ensure formatting matches the format of other responsibility rules.

Mr. Burke inquired whether this committee was addressing the issue of threshold inspections on existing buildings. Mr. Charland indicated that the committee was not addressing the issue at this time.

- C. NCEES  
(John Burke, P.E., FBPE Liaison)

Mr. Burke confirmed his plans to attend the NCEES Annual meeting in Minneapolis. Ms. Flynn, Mr. Charland and Mr. Rebane will also be in attendance. One of the most important issues addressed in the upcoming conference is the B+3-0 Initiative. This will be discussed later in the agenda.

- #1. Emeritus Status of past Board Members

Mr. Burke called attention to recent contact by Dale Zimmerman, P.E. a former Board member regarding emeritus status. Mr. Zimmerman would like to be reinstated as an NCEES emeritus member. The purpose for this reinstatement is

related to Mr. Zimmerman's efforts on the B+30. Mr. Burke asks Ms. Flynn to explain how emeritus status is gained and why status is removed.

Mr. Flynn outlined the process of granting emeritus status. In the past this status was granted as a result of holding former Board member status. For future appointments to the Board, there will be encouragement to participate in the NCEES meetings or committees in order to be granted this status. The list of emeritus status members was purged over the past ten years based on lack of participation in NCEES. The Board may nominate any former Board Member and the nomination will be submitted to NCEES Board of Directors for approval.

Upon motion by Mr. Tomasino, seconded by Dr. Bauer, Mr. Zimmerman will be nominated for reinstatement as an NCEES emeritus member.

D. Advisory Attorney's Report

#1. Letter to Marjorie Holladay dated July 23, 2008 regarding Rule 61G15-19.004 – Disciplinary Guidelines

Since the language for this rule was published after July 1, 2008, an impact of small businesses statement will not be required.

Mr. Flury indicated that a motion would need to be made on whether the proposed rule will have an impact on small businesses.

Upon motion by Dr. Bauer, seconded by Mr. Charland, there would be no impact on small businesses as a result of the passing of this proposed rule.

Mr. Tomasino noted that everything this Board does affects engineers. He was concerned as to the absence of specifics on which to base the motion.

Mr. Flury, in his opinion, did not believe this rule would impact small businesses. A vote was called and the motion passed.

#2. Update on procedures for rulemaking

Mr. Flury discussed a statutory change July 1, 2008 relating to the rulemaking process. All agencies will be required to prepare economic impact statements as it relates to small businesses. Mr. Flury is uncertain at this time how to prepare these statements. DBPR is now working on how they will prepare these statements. Mr. Flury read the rule to the Board as well as the definition of small business:

“...an agency shall prepare a statement of estimated regulatory costs of the proposed rule, as provided by s. 120.541, if the proposed rule will have an impact on small business.”

The definition of small business means "...independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification."

For all proposed rules noticed after July 1, 2008, the Board will have to determine economic impact on small businesses.

Upon motion by Dr. Bauer, seconded by Mr. Tomasino, the following statement will be used as the language when preparing economic impact statements "The Board has a good faith belief that the proposed rule will not have an impact small business."

#3. Proposed Responsible Charge Rule

Mr. Geer confirmed his reading of the proposed rule and his circulating to FES members for comment. He reviewed the comments. All comments noted a word change, but he has not forwarded those comments because they were conflicting and did not seem substantive. FES committee is generally comfortable with the proposed rule. Mr. Geer will forward the comments to staff for their review.

Mr. Burke explained what responsible charge means and why it is important.

Upon motion by Mr. Tomasino, seconded by Dr. Bauer, the motion to open rule development passed.

#4. Petitions for Variance & Waiver  
**TO BE HEARD AT 10:00 A.M.**

**The Board approved the Variance and Waiver Petitions filed by the following students of Florida Gulf Coast College.**

- a. David S. Andrade
- b. Adrienne N. Argento
- c. Kyle D. Armstrong
- d. Gregg J. Lally
- e. Tricha Louis
- f. James S. Maddox
- g. Jenna E. Martin
- h. Stephanie J. Mooney
- i. Kelly A. O'Nan
- j. Ashley E. Roth
- k. Windeliz Santana Gohl
- l. Daniel W. Schroeder

- m. Jessica A. Sharpe
- n. Derek C. Sullivan
- o. Thomas M. Sweeney, III
- p. Jennifer D. Thomas
- q. Richard W. Van Fleet
- r. Kyle W. Vealey
- s. Grable T. Walls
- t. John M. Williams
- u. Robert E. Zandstra, Jr.
- v. Anthony W. Zimmerman

Mr. Flury confirmed these individuals as final year students in the engineering program Florida Gulf Coast University. The program is scheduled for the EAC/ABET accreditation visit. As these programs are not currently EAC/ABET accredited, it does not meet the Board's definition of a Board approved program. These students are petitioning for a waiver or variance of Rule 61G15-20.001, F.A.C., that defines a "Board approved program" so they may be approved to sit for the Fundamentals Examination. Mr. Flury reminded the Board of Mr. O'Neill's previous appearance and direction from the Board to file the Petition for Variance and Waiver by each student. All of the Petitioners have fulfilled all other requirements to sit for the exam.

Dr. Bauer asked what would occur if the program is not accredited. Mr. Flury indicated the Board would have to decide to pursue their original plan to grant the Petitions, the students would sit for the examination and certification as an EI would be held until accreditation occurs.

Upon motion by Dr. Bauer, seconded by Mr. Charland, the Petitions for Variance and Waiver were approved, the students named will be approved to sit for the Fundamentals Exam and Certification will be withheld until accreditation is finalized. Experience during this time would be recognized toward qualification for the Principles and Practice Examination.

E. Executive Director's Report

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

#2. Board Member Observers for October Exam

Ms. Flynn called attention to the appointment of Board observers for the October Exam. For the last exam, the FEMC Board Members assisted. In discussion, the following decision was made. Mr. Burke will cover the Friday exam in Orlando. Ms. Garcia will attend Friday and Saturday for the Miami examination. Mr. Tomasino will attend the Tampa/USF examination site on Saturday. Staff will cover the Tallahassee Friday and Saturday examinations.

#3. Review of Continuing Education Application Forms

Mr. Benjamin explained the changes to the applications. These forms will need to go to Rules Committee in order to develop a rule on renewal of continuing education providers.

Upon motion by Mr. Tomasino, seconded by Mr. Charland, the contents of the renewal applications were approved.

In discussion as to how to expedite the process of approval the Board discussed delegation of authority to the Executive Director to review and approve the renewal application.

Upon motion by Dr. Bauer, seconded by Ms. Garcia, the Executive Director may sign off on continuing education renewal applications, which contain the exact information appearing on the first application resulting in approval as a continuing education provider. Applications with substantial change should go to the Continuing Education Committee.

- a. Application for Continuing Education Provider Renewal Application
- b. Application for Continuing Education Provider New Provider Application
- c. Application for Laws & Rules Continuing Education Course New Course Application
- d. Application for Laws & Rules Continuing Education Course Renewal Application

#4. Email from Jeffery R. Keaton, PhD, PE, PG, of MACTEC Engineering & Consulting, Inc., regarding ABET Program Accreditation Visit to Florida Atlantic University

Ms. Flynn briefed the Board on an invitation to appear at the ABET Review at Florida Atlantic University. No Board members were available for a visit to Florida Atlantic University.

Mr. Burke asked about an ABET Review at Emory Riddle. Ms. Flynn will check on the dates and coordinate with Dr. Bauer as to his attending.

#5. 2008-2009 Contract with DBPR

Ms. Flynn briefly discussed key changes in the contract with the Board. The budget was reduced by \$100,000, DBPR will conduct a study of FEMC to determine a time to phase FEMC into Onbase (electronic scanning program), and the incorporation of performance standards resulting in removal of "attachment 6" from the Browning Study.

Mr. Tomasino asked if expiration of the contract with Accenture affects use of LicenseEase. Ms. Flynn explained the expiration of the contract with Accenture does not result in additional funds or change in use of LicenseEase.

#6. Quarterly Report April 1, 2008 through June 30, 2008

Mr. Burke asked about the number of applications who did not receive the 30 day time period. Ms. Ingram explained the procedure for notifying the applicant of receipt of their application and although a 30 day letter may not have been provided with specific deficiencies communication does occur. Additionally, the work load was such that the 30 day period expired on a weekend and due to the volume of applicants, the licensure analyst was simply not able to meet the deadline for all applications.

Ms. Ingram noted with ELSESES providing email notification of examination results, a great burden is placed on the licensure analyst to respond to questions generated from the emails concerning certification, licensure and/or reexamination opportunities.

#7. Newsletter – Summer 2008

Ms. Flynn announced the publication of the summer newsletter and noted the absence of the rule cite within the disciplinary actions. This will be corrected for the next newsletter.

#8. Exemption of Continuing Education for Engineers licensed by endorsement

Ms. Flynn presented a proposal to exempt continuing education requirement for engineers licensed by endorsement within the biennium.

When continuing education was first required by statute, the Board provided for an exemption to first time licensees by examination. Ms. Flynn asked for this same consideration of endorsement applicants based on completion of the Study Guide on Laws and rules and completion of the Building Code Core Course if applying for permit in the State.

Dr. Hyder asks if the applicant could use continuing education from other states as part of their application for licensure by endorsement. Mr. Flury explained that courses would not be acceptable as they may not be completed from approved Florida providers.

After discussion the following action was taken.

Upon motion by Dr. Bauer, seconded by Dr. Earle, the item was tabled for a later date after review by the Rules Committee.

F. Chief Prosecutor's Report

#1. Non-Compliance Report

Mr. Creehan briefly discussed the mandate to comply with terms of the Final Order. When a licensee fails to comply, an administrative complaint is filed.

The Board discussed procedures in place and what improvements might apply to obtain compliance with final orders. Mr. Flury confirmed with entry into a non-compliance status the licensee must still be given due process in accordance with Chapter 120, F.S.

The Board encouraged Mr. Creehan to be more proactive in collecting fines and costs in disciplinary cases.

#2. July Open Case Report

See #3 below.

- #3. Profile of legal cases by year
- a. Cases open for 1 years plus
  - b. Total open cases by year

Mr. Creehan reviewed the numbers of old cases and indicated by December all old cases should be cleared.

Dr. Bauer questioned Mr. Creehan regarding the number of investigators currently working for FBPE. Mr. Creehan confirmed current caseload does not present a problem for the investigators.

#4. Investigator's Travel Synopsis

Mr. Creehan briefed the Board on investigators activity in the field, conducting interviews, working cases, meeting with permitting agencies, building officials, etc. Mr. Creehan asked the Board to advise him of other specific contact needed. Mr. Burke believes sufficient planning is needed so the investigators use their time efficiently and effectively. Having the investigators show up at a location to find the individual they wish to speak with is away from the office is a waste of time and money.

Mr. Creehan assured Mr. Burke that he would speak with the investigators to make sure that they are making appointments and using their travel time wisely.

Dr. Earle believed the expedient processing of cases is very important. Mr. Creehan explained one useful option of the respondent waving probable cause. This allows immediate filing of the Administrative Complaint to obtain a settlement stipulation. Mr. Creehan advised the Board that turn-around time has lowered significantly and he will continue working to keep cases moving.

Mr. Burke encouraged Mr. Creehan to go to the Board Members if they experience difficulty in obtaining consultants for reviewing files.

Mr. Burke believed the slow processing of cases is affected by the consultants. The appropriate expert is critical to processing the case efficiently and effectively and there is also the issue of some experts not performing well at the Division of Administrative Hearings.

Payment of expert witness fees was discussed. Mr. Burke indicated that it would be placed on the next Board Operations Committee Meeting Agenda.

G. Chair's Report

#1. Emails and letter from Robert Higgins, Chair, Professional Concerns Committee, FES, regarding Landscape Architects

Mr. Burke discussed the 1980's a territorial dispute between engineers and landscape architects regarding landscape architects being allowed to perform drainage design. Through efforts of a special committee and directions from the legislature, representatives of both professions were directed to work out the issues. The agreement defined the scope of practice for a landscape architect and when a professional engineer would have to be involved.

Mr. Geer explained the wishes of some to expand the scope of typical landscape architecture to perform design of drainage systems. Somehow, through the Landscape Architecture Board, they had their Board Counsel write an Attorney General opinion that bolsters their opinion on parameters for practice of drainage as landscape architects. The Attorney General's opinion is official. This issue needs to be addressed between the professions with the intent of avoiding legislative changes. Many FES members see this as a threat to the public's health, safety and welfare. There is pressure to have these things defined.

Mr. Burke asked what steps the Florida Engineering Society will take. Mr. Geer indicated FES has not decided whether to pursue legislative change. Mr. Burke did not believe this Board should be involved at this point. Once FES determines their action, they can advise the Board.

#2. Discussion of B+30

Mr. Burke discussed his thoughts on B+30 and his need to be prepared to vote the Board's position on B+30 during the annual meeting. He is aware of several resolutions being brought forth during the meeting. The purpose of this discussion is to establish the Board's position.

Mr. Burke cited some concerns with the present plan. No definition as to content of the 30 hours, date of 2015 to implement, NCEES moving forward and ABET's refusal to address change to their curriculum requirements. ABET is concerned about increased cost for additional college credits and efforts to keep student loans down.

Mr. Burke noted the original efforts of NCEES to establish ABET and since its inception there has been a substantial change in curriculum requirements. Present curriculums do not address the concerns of additional hours. If adopted into Model Law, each state will have to seek their only legislative change to implement the requirement into statute. The idea must be approached with an open mind. Implementation is the problem. Mr. Burke was concerned with the role NCEES would have to play in establishing their headquarters as the clearinghouse for approval of additional courses.

Dr. Bauer indicated that everyone has heard the complaint from fellow engineers that engineers don't get the respect that lawyers and doctors do. Our colleagues in law and medicine go through a baccalaureate program. Lawyers have 3 years of post-graduate training and doctors have 4 years and then residency. He understands the respect issue; however, the undergraduate curriculums do not have room for the additional hours. Dr. Bauer believes that if engineers want to get serious about the respect issue, and the preparation, they are going to need more concentrated and focused

education. He was particularly concerned with the BS+30 and believed a requirement of an MS would be much more effective.

Dr. Earle believed the focus should be details of what the 30 hours would cover. The engineering profession is faced with some greater challenges. The industry has accommodated the needs by establishing their own training programs. He has seen nothing from ABET on this issue. If ABET does not support this, who would accredit the hours? The Board must look at the entire picture regarding education in place at this time, cost factors and challenges with adding 30 hours of education. Dr. Earle does not support the B+30 Initiative at this time.

Dr. Hyder believed the issues will be resolved very quickly. He believed the schools will determine what the 30 hours will be. Dr. Hyder does not foresee problems with implementation.

Mr. Geer indicated that FES & FICE oppose B+30. They are concerned with issues relating to reduction in the number of young people who would consider entry into the engineering profession. FES & FICE believe an increase in the educational requirement without defining what that requirement will be will affect potential engineering students.

In summary, it is the position of this Board that if the B+30 concept is promulgated that the 30 additional hours of instruction be based on a nationally agreed upon curricular outline. This could be done in the form of a Masters Degree or a set of body of knowledge principles developed by the various technical professional societies.

Upon motion by Dr. Bauer, seconded by Mr. Charland, the Board supports the B+30 proposal with stated concerns to be addressed.

#### H. Correspondence to the Board

##### #1. Email from Dennis Barton to Mr. Tomasino

Mr. Burke discussed an email which was generated out of a discussion at the June Board Meeting regarding cutting expenditures. After a brief discussion it was determined the publication of disciplinary results will occur in the Board's newsletter and web site.

#### I. Old Business

Ms. Flynn presented the wall certificates and wallet cards which will be provided to renewal licensees during the 2009 renewal.

#### J. New Business

K. Public Forum

Time certain presentation at 11:00 a.m.

Mr. Dunn, President of Suncam outlined the process for development of a laws and rules course by video. Mr. Dunn indicated Suncam's primary goal to deliver laws and rules continuing education courses by video. The video is 3 hours and 20 minutes in length. Mr. Dunn believed their course is better than coming to a Board Meeting because they are easier to watch and a test is given at the conclusion of the video. Mr. Dunn's company video-taped several meetings, and while they did not edit the disciplinary cases at all, they selected certain items from specific board meetings for inclusion into the course. He wanted to receive a sense of the Board's position on approval of any future application for laws and rules credit by video-tape.

Mr. Burke advised Mr. Dunn that he would vote against approval of an application by Suncam to offer the laws and rules course by video. Part of the reasoning is that the prosecution of cases has changed since first approving attendance at a Board meeting for laws and rules credit. There isn't as much information shared with the engineers attending. With the Board's vote to discontinue allowing laws and rules credit on the second day of the Board meeting, it would not make sense to allow a Board Meeting to be taped and used for that kind of credit.

Mr. Burke noted this decision would not put Suncam out of business it just changes their method of offering laws and rules. The majority of the Board supported Mr. Burke's statement.

With conclusion of the Board business, the Application Review was convened.

**THURSDAY, August 7, 2008**

**Call to Order**

Mr. Burke briefly discussed the B+30 initiatives and how it might affect the future of engineering profession.

Renewal 2009 Workshop Presentation – Sean Benjamin

Mr. Benjamin outlined the on-line renewal process through presentation of a video.

Dr. Bauer discussed the various types of files reviewed during application review the previous day. Mr. Burke called for a vote on the ratification action taken in the application review.

Upon motion by Dr. Bauer, seconded by Dr. Earle, the actions of the application committee were ratified.

Upon motion by Dr. Bauer, seconded by Ms. Garcia, the motion passed to approve the applications of the students from Florida Gulf Coast University to sit for the Fundamentals Examination with the restrictions placed through passing of a motion on August 6, 2008 (see D.4.)

#1. Endorsement/Continuing Education Committee  
(Vacant, Chair)

a. Committee Chair's Report.

#2. Rules Report - Michael Flury, Esquire, Board Counsel  
(Exhibit #2)

Rule	Title	Develop.	Notice	Adptd.	Effect.
No.		Published	Published		

The following rules are **ON HOLD** or **PENDING**:

The following rules are **IN PROCESS**:

61G15-18.011	Definitions	12-7-07	4-11-08	5-16-08	6-5-08
61G15-19.001	Grounds for Disciplinary Proceedings	3-7-08			
-19.004	Disciplinary Guidelines, etc.				
61G15-20.001	Definitions, Appl. For	8-1-08			
.0015	Lic. By Endorsement,				
.007	Dem. of Subs. Equiv.				
61G15-21.009	Endorsement	8-1-08			

61G15-22.001	Renew. Of Act. Lic.	8-1-08			
.011	Bd. Appr. Of CE Prov.				
61G15-22.015	Compliance with	12-7-07			
	Mandatory Florida Bldg.				
	Code Training; C.E.				
61G15-23.002	Elect. Seals, Signatures	8-1-08			
.003	And Procedures				
61G15-30.001	Purpose	12-7-07	3-14-08	(On JAPC hold as of 4/9/08)	
.002	Definitions Common to All Engineer's Responsibility Rules				
.003	Engineering Document Classification				
.005	Request for and Review of Delegated Engineering Documents				
.006	Delegated Engineer's Responsibility				
.007	Prime Professional's Responsibility				
.009	Retention of Engineering Documents				
.010	Energy Conservation Compliance				
61G15-32.001	General Responsibility	11-21-07	3-14-08	(On JAPC hold as of 4/9/08)	
.002	Definitions				
.003	Comm. Req. to all Fire Protection. Eng. Docs.				
.008	Design of Fire Alarms, Signal and Control Systems				
61G15-33.001	General Responsibility	12-7-07	3-14-08	(On JAPC hold as of 4/9/08)	
.002	Definitions				
.003	Design of Power Systems				
.004	Design of Lighting Systems				
.005	Design of Communications Systems				
.006	Design of Alarm Systems				
.007	Design of Lightning Protection Systems				
.008	Design of Grounding Systems				
.010	Certification of Electrical Systems of Public Interest				
61G15-34.001	General Responsibility	11-21-07	3-14-08	(On JAPC hold as of 4/9/08)	
.002	Definitions				
.003	Design of HVAC Systems				
.007	Design of Plumbing Systems				
61G15-37.001	Perform. Stds. And	8-1-08			
	Meas. Outcomes				

The following rules are **ADOPTED**:

61G15-20.006	Educationl Requiremnts	9-23-05	7-28-06	3-21-08	4-10-08
61G15-21.007	Re-examination	7-21-06	8-11-06	3-21-08	4-10-08
61G15-22.0105	Approval of C.E.	2-8-08	2-29-08	4-8-08	4-28-08
	Courses in Laws and				
	Rules				

**Part II**  
**Informal Hearing Agenda**

**Begin hearings after Report on Educational Requirements by Chair of Educational Advisory Committee (Christian Bauer, Ph.D., P.E., Chair)**

- L. Consideration of Petition for Formal Hearing
- M. Informal Hearings on Denial of Application for Fundamentals Examination

#1. Alexey Polo

Mr. Polo holds a Bachelor's Degree from University of Oriente in Santiago de Cuba, Cuba. Mr. Polo applied to sit for the Fundamentals Examination and was denied based on educational deficiencies. Review of the evaluation of undergraduate studies by Josef Silny & Associates to determine substantial equivalency to Rule 61G15-20.007, F.A.C. proved deficiencies of 2.75 hours in Mathematics and Basic Sciences including a course in Probabilities and Statistics.

Mr. Polo submitted an Election of Rights form to have an Informal Hearing. Mr. Polo is requesting the Board reconsider his Silny evaluation and if the denial is upheld, he is requesting the file be held open until he completes a course in statistics.

Dr. Bauer indicated that the course Mr. Polo submitted for the Board's review is acceptable to satisfy the statistics requirement.

Upon motion by Dr. Bauer, seconded by Mr. Charland, Mr. Polo's file will be held open until the February 2009 Board meeting. Motion passed.

- N. Informal Hearings on Denial of Application for Principles and Practice Examination
- O. Informal Hearings on Denial of Application for Licensure by Endorsement

#1. Sachin M. Butala

Mr. Butala holds a Professional Engineer license in Texas based on acceptance of his BS degree in Civil Engineering from India and a Masters Degree in Civil Engineering from Lamar University, passing of the Fundamentals and Principles & Practice Examination in Texas and evidence of four years of engineering experience.

Mr. Butala applied for licensure by endorsement and was denied for educational deficiencies. The transcript evaluation was reviewed by the

Education Advisory Committee to determine equivalency to requirements of Rule 61G15-20.007, F.A.C. It was determined that Mr. Butala was deficient 14.25 semester credit hours in Math and Basic Sciences and 16 semester hours in Humanities and Social Sciences. A review of the Masters Degree in Civil Engineering from Lamar University did not reduce the deficiencies. In August of 2007, Mr. Butala was scheduled for an Informal Hearing. During the hearing, the hours of deficiencies were revised and the Informal Hearing was continued to August of 2008.

The order cited a specific date for continuance of the hearing to the August 2008 Board meeting. Mr. Butala has submitted updated transcripts since his hearing in 2007. The Board should review the transcripts and determine if revised deficiencies of 11.25 hours math and basic sciences and 10 hours in Humanities and Social Sciences is satisfied. It is noted that Mr. Butala will evidence two years of licensure in another state in February 2009. If the present review determines the only remaining deficiencies to be Humanities and Social Sciences, they may be waived pursuant to Rule 61G15-20.0015(3), F.A.C. as of February 2009.

The Board discussed the options presented in Mr. Butala's case.

Upon motion by Dr. Bauer, seconded by Mr. Charland, with the math and basic sciences satisfied leaving only the deficiency of Humanities and Social Sciences; the case will be continued to the February 2009 Board meeting at which time under authority of Rule 61G15-20.0015(3), F.A.C. the deficiencies in Humanities and Social Sciences will be waived and Mr. Butala may be licensed.

#2. Carl Karakos

Mr. Karakos licensed in New Jersey in 1997 based on a BS in Engineering Technology from the New Jersey Institute of Technology, evidence of four years of engineering experience, waiver of the Fundamentals Examination based on fifteen years of experience and passing the Principles and Practice Examination.

Mr. Karakos' application was denied for educational deficiencies. Mr. Karakos does not hold a Board approved engineering degree. He holds a Bachelor of Science in Engineering Technology. Mr. Karakos' elected an Informal Hearing and he engaged counsel, James Toombs, Esquire. On behalf of Mr. Karakos, Mr. Toombs has submitted a memorandum of support of approving the application.

It is further noted that Mr. Karakos submitted an evaluation from Silny and Associates. Although the evaluation was not necessary, it does point out certain deficiencies that would need to be resolved if he pursues a post graduate degree in engineering for future application. The deficiencies are

21 hours in math and basic sciences, including a course in Probability and Statistics and General Chemistry, and one additional calculus based physics or chemistry course and four semester credit hours in Humanities and Social Sciences and 20 semester credit hours in engineering sciences and design.

Mr. Karakos was present at the hearing and sworn prior to addressing the Board. Mr. Karakos counsel, James E. Toombs, and supervisor, William T. Stone, were also in attendance. Mr. Toombs was sworn prior to addressing the Board.

Mr. Karakos and Mr. Toombs both testified. Mr. Karakos testified regarding his education and Mr. Toombs testified regarding the hiring process and why and how Mr. Karakos was hired. Mr. Stone argued that licensure should be granted to Mr. Karakos because it is in the best interest of the State.

Upon motion by Dr. Bauer, seconded by Mr. Charland, the motion to deny the application based on the Engineering Technology Degree received outside the Florida University System passed.

#3. James Gilpin

Mr. Gilpin was licensed in North Carolina in 1993 based on acceptance of his BS from the University of Michigan, MS from Southern Methodist University of Texas, passing of the Fundamentals and Principles and Practice Examination and evidence of four years of engineering experience

Mr. Gilpin applied for licensure by endorsement. The Committee reviewed the application and determined that disciplinary action was taken in the State of North Carolina. The Application Committee voted to defer the application to the full Board at which time Mr. Gilpin should appear to answer questions concerning the disciplinary action. His appearance was initially scheduled for the April Board meeting; however, Mr. Gilpin was unable to attend due to a surgical procedure. Mr. Gilpin was unable to attend the August meeting because he is still under orders not to travel.

In discussion with Board Counsel based on previous Board action in similar situations the matter is before the Board for consideration of licensure. Mr. Flury recommended the Board approve this application as the cited violation would have been addressed as a minor violation if occurring in Florida.

Upon motion by Mr. Charland, seconded by Mr. Tomasino, the licensure of Mr. Gilpin was approved. Motion passed.

**Part III**  
**Disciplinary Hearings**

Description of Disciplinary Process - Henn Rebane Chairman of the Probable Cause Panel.

In Mr. Rebane's absence, Mr. Burke outlined the complaint process and role of the Probable Cause Panel.

P. Settlement Stipulations

- #1. Lester Maples, P.E.  
PE 10214  
FEMC Case Number 2006051138  
Represented by: Alvin Peters, Esquire  
Probable Cause Panel: Rebane, Seckinger

This case was pulled due to Mr. Maples family health issues. Mr. Creehan advised the Board that if this case is not heard at the October Board Meeting in West Palm Beach, it will be heard at the December Board Meeting in Tallahassee.

- #2. Judy A. Perkins, P.E.  
PE 62332  
FEMC Case Number 200701519  
Probable Cause Panel: Rebane, Seckinger

Ms. Perkins was not present at the Board Meeting.

This investigation is predicated on the receipt of a complaint alleging Ms. Perkins signed and sealed plans for the Amelia Estates project which failed to meet acceptable engineering standards. The FEMC Consultant opined that the specifications and calculations used by Respondent failed to reach a level of acceptable engineering principles. Specifically the Consultant opined that it was his belief that the Respondent "*began and performed an engineering assignment without knowledge of the minimum standards.*" Further, he felt the Respondent did not have the requisite experience or training in hydraulic calculations, yet proceeded on that aspect of the project nevertheless.

In lieu of further administrative proceedings, Respondent agreed to waive probable cause in this matter and in the face of an Administrative Complaint charging her with one count of negligence, accept the terms of the proposed settlement stipulation. In this stipulation, Respondent agrees to a fine of \$1000.00, costs of \$2,300.00, a reprimand and probation to run concurrent with the probation imposed in FEMC Case No. 2006033572.

Upon motion by Dr. Bauer, seconded by Ms. Garcia, the motion to approve the Settlement Stipulation passes.

- #3. Walter Fitzgerald, P.E.  
PE 24636  
FEMC Case Number 2207005175  
Represented by: Edwin Bayo', Esquire  
Probable Cause Panel: Rebane, Seckinger

This case was pulled due to the fact Mr. Fitzgerald's family medical emergency.

- #4. Thomas Carey, P.E.  
PE 5574  
FEMC Case Number 2005014483  
Represented by: Michelle B. Kane, Esquire  
Probable Cause Panel: Rebane, Seckinger

Mr. Carey was not present at this Board Meeting.

This investigation is predicated on the receipt of a complaint from Okeechobee County alleging that Thomas Carey, P. E., designed a set of drawings and specifications for the New Testament Baptist Church for the design of a Church & Office building (Permit # 0412-0036) and a Church & Classroom building (Permit # 0412-0037), which were filed with the Okeechobee County Building Department. It was claimed that the drawings were materially deficient in that they did not contain numerous required elements and other information including "the most basic items of the Florida Building Code."

Probable Cause was found and an Administrative Complaint was issued and served. A Stipulation to resolve the matter was entered into and was presented to the Board at the April meeting. At that meeting, the Board rejected the stipulation & offered a Counter Stipulation which encompassed all terms of the proposed Stipulation but also included a restriction on Mr. Carey's structural engineering practice until he passed the P& P exam in that specialty as well.

After discussion with Mr. Carey & his counsel, a new Stipulation was entered into. In that Stipulation, Mr. Carey agreed to permanently RELINQUISH his PE license, pay the COSTS of \$1,874.92, and pay a FINE of \$1000.00.

Upon motion by Mr. Tomasino, seconded by Dr. Earle, the motion to accept the Settlement Stipulation passes.

- #5. Nicholas W. Nicholson, P.E. & Nicholson Engineering Associates, Inc.

PE 37862  
CA 7544  
FEMC Case Numbers 2004012569, 2007031230  
Represented by: Dominic MacKenzie, Esquire  
Probable Cause Panel: Rebane, Seckinger

Mr. Nicholson was present and sworn in prior to addressing the Board.  
Mr. MacKenzie, counsel for Mr. Nicholson was also present.

Case # 2004012659

The investigation was initiated on the complaint filed by a homeowner, alleging the plans submitted with subject's signature and seal for his residence resulted in construction of a house that is shaky and unstable in a mild wind. The house is built with a floor at 9'8", with a floor truss system resting on concrete block piers. Additionally, a concrete slab was constructed at grade beneath the house. The complaint also alleged the slab had excessive cracking.

On May 28, the parties entered into a Combined Stipulation that resolved this Case and Case # 2007031230. PCP Recommendation: Respondent will be placed on 18 month(s) probation with plan review at 6 and 12 months.

The Stipulation calls for dismissal of Nicholson & Associates as Party; Respondent's license to practice engineering shall be REPRIMANDED. Respondent shall be placed on PROBATION for one (1) year subject to the following terms: a. Respondent shall pay COSTS of \$2000.00 to the Board within thirty (30) days of the date that the Final Order adopting this Stipulation is filed with the Agency Clerk. Respondent shall successfully complete TEXAS TECH UNIVERSITY'S PDH-40 INTERMEDIATE STUDIES IN ENGINEERING ETHICS COURSE within one (1) year of the date the Final Order adopting this Stipulation is filed. Prior to that date, Respondent shall submit to the Board a Certificate of Completion. It is the Respondent's responsibility to notify the Board that he has completed the course in a timely manner. Respondent shall APPEAR before the Board when the stipulation is presented. Respondent should be prepared to discuss the status of his practice since the successful termination in 2006 of the probation imposed upon him in FEMC Case Numbers 2004005914 and 2004005946.

Case # 2007031230

This investigation began when complainant, Gregory Escamilla, stated that Respondent, acting on behalf of All Coast Engineering, produced an engineering report which prescribed demolition and reconstruction of the Complainant's home as the appropriate method to remedy cracking in the

walls and slab of the house. Subsequent review determined that the cracking did not require demolition and Complainant asserted that the report recommending such a remedy was not based on sound engineering analysis.

The PCP found no basis upon which to charge respondent with negligence but authorized an Administrative Complaint charging Respondent with the delinquent Certificate of Authorization violation.

On May 28, the parties entered into a Combined Stipulation that resolved this Case and Case # 2004012659.

The terms of the Stipulation in case #2004012659 – Reprimand; Probation for one (1) year; Costs of \$2,000.00 within 30 days of the date the Final Order was filed; Successful completion of Texas Tech University's PHD-40 Intermediate Studies in Engineering Ethics within one (1) year of the date the Final Order was filed; Appearance before the Board to discuss the status of his practice since successful termination in 2006 of the probation imposed for prior cases. Respondent, Nicholson Engineering Associates, Inc., is dismissed as a party.

The terms of the Stipulation in case #2007031230 – Appearance before the Board to discuss his understanding of the requirement that any engineering firm for which he provides engineering services must have a current active Certificate of Authorization; Issuance of a Letter of Guidance.

PCP Recommendation: \$1,000.00 administrative fine (\$1,000.00 per count for (1) count); costs of \$255.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date. The Stipulation calls for Respondent to APPEAR before the Board when the stipulation is presented. Respondent should be prepared to discuss: his understanding of the requirement that any engineering firm for which he provides engineering services must have a current active Certificate of Authorization. Respondent shall be issued a Letter of Guidance reflecting that he should not issue any engineering reports or documents on behalf of any engineering firm unless that firm possesses a current active Certificate of Authorization. Respondent agrees that he fully accepts the intent of the Letter of Guidance and that he will adhere to its admonitions in his future engineering practice.

Mr. Nicholson addressed the Board regarding his engineering practice since successfully completing probation in 2006 as a result of previous cases. He confirmed his understanding of the requirement that any engineering firm for which he provides engineering services must have a current active Certificate of Authorization. Mr. Nicholson indicated that the status of his practice has changed. He hired a structural engineer three

years ago and with this hiring implemented a procedure for review of each other's plans. They do this to ensure quality control. He also noted he had passed two plan reviews from prior discipline. As far as ensuring proper licensure, he checks on-line before working with a fellow engineer or engineering firm to make sure that they have an active current license. He understands the importance of licensure status.

Upon motion by Dr. Bauer, seconded by Mr. Charland, the Settlement Stipulation was adopted. Motion passed.

- #6. Costa S. Vatikiotis, P.E.  
PE 45631  
FEMC Case Number 2007046035  
Probable Cause Panel: Rebane & Seckinger

This complaint is predicated on a complaint made by J.C. Russello that plans were signed and sealed by the Respondent dated October 31, 2003 for a single family residence. The plans were insufficient, inadequate in details and did not include sufficient structural design to satisfy the 2004 Florida Building Code.

In FEMC Case. No. 2005055304, the Respondent settled that case of negligence with a stipulation accepted at the FBPE April 2008 meeting. That stipulation requires Respondent to accept a reprimand, pay administrative fines and costs, take a course in Professionalism & Ethics, and serve two years probation with reviews at 6 and 18 months. The events of this case **pre-date** the events of that case. The Probable Cause Panel was made aware of these facts and their recommended penalty reflects this knowledge.

In lieu of formal administrative proceedings the parties reached a proposed settlement stipulation before the Board for action.

Upon motion by Mr. Charland, seconded by Dr. Earle, the Settlement Stipulation was adopted. Motion passed.

Q. Motion for Final Order

- #1. Winthrop Barnett  
PE 25576  
FEMC Case Numbers 2005050647, 2007038075  
Probable Cause Panel: Burke & Seckinger

Mr. Barnett was not present for the Board Meeting.

2005050647 - This complaint was initiated by FBPE with assistance from Debra Donley, Plans Examiner for Hillsborough County. The complaint

alleged that on August 22, 2005, Respondent signed and sealed a set of plans for a screen enclosure for a project to be completed in Tampa, Florida. The plans were submitted to the Hillsborough County Building Department on September 20, 2005. The plans as submitted for the screen enclosure were mere copies of plans that were part of "Lowes's Do-it-Yourself Screen Enclosure" instructions and stated as much on the plans that were submitted by Respondent. In addition, the plans are clearly marked "for instructional purposes only."

2007038075 - The complaint was initiated by Robert Campbell, Director of Transportation and Land Development for Hillsborough County. The complaint alleged that the Respondent's name appeared on a Subdivision and Site Development Application as the Engineer for a Jazzy's BBQ Project. The Subdivision and Site Development Application is dated June 7, 2007. The drawings for the Jazzy's BBQ project was signed and sealed by the Respondent on June 7, 2007. Thus, it appears clear that Respondent was practicing engineering on a delinquent license.

An Administrative Complaint was filed combining both cases on November 21, 2007. The Administrative Complaint charged the Respondent with negligence in the FEMC Case No. 2005050647 and practicing on a delinquent license in FEMC Case No. 2007038075.

Respondent appeared at the April Board meeting and disputed the material facts alleged in both cases and the cases were tabled.

In Nicolitz v. Bd. of Opticianry, 609 So. 2d 92, 93-94 (Fla. 1st DCA 1992) it was determined that in the face of disputed facts, the regulatory agency involved has the discretion to deny the Respondent's right to a formal hearing and to go forward with an informal hearing. The facts in FEMC Case No. 2005050647 are subject to interpretation and therefore, the Respondent is entitled to a formal hearing on those matters. In Case No. 2007030875, however, the facts are indisputable. On March 1, 2007, the Respondent's license was placed on delinquent status for failure to provide the required continuing education obtained during that particular renewal period. The delinquent status remained until June 27, 2007 when he reported his continuing education to FBPE to have that status lifted. Thus, when the plans in question were signed and sealed on June 7, 2007, it is unequivocally clear that the Respondent practiced engineering on a delinquent license.

Therefore, it is this prosecutor's belief that the facts involving FEMC Case No. 2007038075 are undisputed and the case should proceed as an informal hearing and in an effort to expedite these proceedings, the companion FEMC Case No. 2005050647 is to be dismissed. The recommended penalties are adjusted in accordance with this Motion, the administrative fines, costs and suspension period are reduced

proportionally. NOTE: Respondent has a disciplinary history under FEMC Case No(s). 2004004769 and 2004006356.

NOTE: While under probation, the terms of probation to include that if the Subject has no projects to submit based on inactivity for either the 6 or 18 month review process, the probation is to be extended for 6 months, then if inactivity continues beyond that, then Subject is to have his license put on inactive status at that time and to stay in that status unless and until Respondent notifies the Board that he wishes to recommence practicing engineering and obtains Board authorization to reactivate his license under such terms of probation that the Board deems appropriate at that time.

Upon motion by Mr. Tomasino, seconded by Mr. Charland, case 200505647 was dismissed. Motion passed.

Upon motion by Mr. Tomasino, seconded by Mr. Charland, the motion to adopt the findings of fact in the administrative complaint in case number 2007038075 as the Board's findings of fact passed.

Upon motion by Mr. Charland, seconded by Dr. Bauer, the Motion to adopt the conclusions of law in the administrative complaint in case number 2007038075 as the Board's conclusions of law passed.

Upon motion by Mr. Tomasino, seconded by Mr. Charland a penalty was imposed calling for an administrative fine in the amount of \$5,000.00, costs in the amount of \$117 and suspension of his license for two years and thereafter until he appears before the Board to demonstrate his ability practice with the proper skill and safety, and that reinstatement is not guaranteed passed.

Prior to adjournment of the Board Meeting, Mr. Burke asked Ms. Flynn to share with the Board an email she received regarding the B+30 proposal.

Ms. Flynn advised the Board that a resolution will be introduced at the NCEES Annual Conference by the Western Zone. The resolution calls for immediate suspension of further development of the B+30 proposal until the following year. The email goes on to explain the reasoning for this resolution.

Upon motion by Dr. Bauer, seconded by Dr. Earle, the motion to support the notion evidenced in the memo read by Ms. Flynn from the Western Zone and directs Mr. Burke to vote accordingly. Dr. Hyder opposed the motion.

R. Adjourn