

Minutes
The Florida Board of Professional Engineers
February 11-12, 2009
Beginning at 8:30 a.m., or soon thereafter
St. Augustine, Florida

- A. Call to Order, Invocation, and Pledge of Allegiance to the Flag
- B. Roll Call, Determination of Quorum, and Address Absences.

Upon motion to excuse the absence of Dr. Panigrahi by Mr. Wallis, seconded by Ms. Garcia, an excused absence was granted for Dr. Panigrahi.

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

Charlie Geer, FES/FICE
Gary Kuhl, FEMC Board Member
Bob Matthews, Consultant
Dan Arlington, St. Johns County Building Department
Bob Vincent, Department of Health
Bob Foster, Department of Health
Terry Lambert, P.E.
Ronald Milmed, FSEA
Bob Mackey, S2L, Inc.
Jennifer Hatfield, FSPA
Herman Weinberg, HEDJ Engineers
Rob Sanger, Galaxy Pools
John Garner, Pools by John Garner
John Scott, SurfSide Pools

Mr. Burke announced a time certain appearance for 10:00 a.m. Thursday, February 12, 2009 by the Department of Health regarding the Virginia Graeme Baker Pool & Spa Safety Act.

- D. Approval of the Agenda

Upon motion to accept the Agenda by Mr. Wallis, seconded by Dr. Bauer, the agenda was adopted. The motion passed.

Informal Hearing Agenda

- E. Informal Hearings on Denial of Application for Fundamentals Examination

#1. Pedro Barrios

Mr. Barrios was present and sworn in prior to addressing the Board.

Mr. Barrios holds a BS degree from Polytechnic University of America in Electrical Engineering. He applied to take the FE Exam in October, 2007. Mr. Barrios' BS degree was evaluated by Josef Silny & Associates in April 2008. After supplementing his record, the Application & Educational Committees determined in January 2009 that Mr. Barrios was deficient three (3) semester hours in math and basic sciences and one (1) semester hour in humanities and social sciences.

Mr. Barrios provided a transcript to the Board, which, after review, was determined to satisfy the deficiencies in math and basic sciences.

Upon motion to grant approval by Dr. Bauer, seconded by Dr. Earle, the (1) hour in humanities and social sciences was waived and Mr. Barrios' application was approved for examination.

#2. John Woodard

Mr. Woodward was present and sworn in prior to addressing the Board.

Mr. Woodward holds a BS in Electronic Engineering Technology from Florida A & M University. He applied to take the FE Exam in October 2007. The Educational Committee reviewed Mr. Woodward's application March 10, 2008, at which time the Committee determined that his degree was not from a Board approved engineering program. Mr. Woodward requested a formal hearing. Counsel for the Board notified Mr. Woodward in November of 2008 that in order to grant his request for formal hearing, he would need to identify disputed issues of fact which were not identified at the time of the request.

Mr. Flury explained to the Board that he did not believe there were any disputed issues of material fact and that if the Board agreed, they would need to deny Mr. Woodward's request for formal hearing.

Upon motion to deny a formal hearing by Mr. Tomasino, seconded by Dr. Bauer, the Petition for Formal Hearing was denied.

Mr. Flury advised the Board to proceed with the matter as an informal hearing.

Mr. Woodward explained to the Board that FAMU has one of the oldest engineering schools in Florida. He asked if there was a concession for FAMU students after the rule changed relating to technology degrees. He also asked the Board to consider a "grandfather" clause that would allow him to take the FE exam.

Dr. Bauer advised Mr. Woodward that he could take additional coursework to achieve a BS or MS degree in engineering. Dr. Bauer indicated that he was not

aware of any waiver to FAMU after 1979. Mr. Woodard asked whether the Board advised the universities that their students would not be allowed to take the test after 1979. Dr. Bauer indicated that FAMU should have been aware of the change in statute through notification from the Board.

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

#3. Marjan Arsovic

Mr. Arsovic was not present and was not represented by counsel. Prior to the Board meeting, Mr. Arsovic provided a written statement which was presented to each Board member prior to hearing.

Mr. Arsovic holds a BS degree from the University of Belgrade (Serbia Europe) in Mechanical Engineering and an MS degree from the University of Belgrade (Serbia Europe) in Mechanical Engineering. He applied to take the FE exam on April 11, 2008. CPEES evaluated Mr. Arsovic's degrees.

The Educational Committee reviewed Mr. Arsovic's application on 09/17/2008. They determined his deficiencies were 11 semester hours in Math & Basic Sciences including Differential Equations, Physics with Calculus and General Chemistry and four (4) semester hours in Humanities and Social Sciences. Mr. Arsovic chose to supplement his application and requested an informal hearing.

The Educational Committee reviewed his supplement on 01/14/2009. They determined he was deficient seven (7) semester hours of Math & Basic Sciences – three (3) semester hours of which must be Chemistry, and 1.8 semester hours of Humanities and Social Sciences.

Dr. Bauer explained that Mr. Arsovic was requesting credit for a course in ethics, mathematics and science and that those courses do not satisfy his deficiencies.

Upon motion to deny the application by Dr. Bauer, seconded by Dr. Earle, denial of the application was upheld.

#4. Ashraf Eskander

Mr. Eskander was present and sworn in prior to addressing the Board.

Mr. Eskander holds a BS degree from Assiut University in Architectural Engineering. He applied to sit for the FE exam on April 17, 2008. CPEES evaluated Mr. Eskander's degree. The Educational Committee reviewed Mr. Eskander's application on 07/16/2008 and determined his deficiencies were 17 semester hours in Math & Basic Sciences to include Differential Equations, Probabilities & Statistics and Chemistry and 2.5 semester hours in Humanities

and Social Sciences. Mr. Eskander requested a Formal Hearing August 24, 2008. Mr. Eskander requested an Informal Hearing December 4, 2008.

Mr. Flury explained that CPEES gave him more credit for courses than the committee. CPEES gave him a deficiency of 9 hours in math and basic sciences and the committee found a deficiency of 17 hours.

Dr. Bauer explained that the course was introductory and was not sufficient and went on to explain what would be needed to satisfy the deficiencies.

Mr. Flury advised Mr. Eskander that if he had new information his file could be sent back to the educational committee.

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

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

#1. Payal Sanjay Pandya

Ms. Pandya was present and sworn in prior to addressing the Board.

Ms. Pandya applied to sit for the Principles & Practice Examination. Her application was denied by the Board on 11/12/2008 based on education. Mrs. Pandya holds a Bachelor Degree in Civil Engineering from the Gujarat University in India and a Master of Engineering degree from the South Gujarat University in India.

The Board reviewed the evaluation of her BS degree by CPEES/Center for Professional Engineering Evaluation Services to determine substantial equivalency to Rule 61G15-20.007, F.A.C. Mrs. Pandya was determined to be deficient 8.5 hours of Math & Basic Sciences and 12 hours of Humanities and Social Sciences.

Ms. Pandya supplemented her application with transcripts from her MS program and the Board decided that she met the Humanities and Social Sciences deficiency with this information. Mrs. Pandya is now only deficient the 8.5 hours of Math and Basic sciences.

Ms. Pandya explained to the Board that the math required was taken in high school.

Dr. Hyder explained the math had to be a college level course. Dr. Bauer advised Mrs. Pandya to have her MS evaluated.

Upon motion by Dr. Bauer, seconded by Ms. Garcia, the hearing was continued until June. Ms. Pandya will have time to secure additional evaluation of her transcripts and when received will be returned to the application review committee in May. Should the file be denied the hearing would continue in the June meeting.

#2. Adrian Albert Viala

Mr. Viala was present and sworn in prior to addressing the Board.

Mr. Viala applied to sit for the Principles & Practice Examination. His application was denied by the Board on 09/17/2008 based on education. Mr. Viala holds a Bachelor Degree in Civil Engineering from the Kwame Nkrumah University of Science and Technology in Ghana and a Master of Engineering Degree in Civil Engineering from The University of Florida. The Board reviewed the evaluation of both degrees by Joseph Silny & Associates, Inc. to determine substantial equivalency to Rule 61G15-20.007, F.A.C. Mr. Viala was determined to be deficient 16 hours of Humanities and Social Sciences.

Mr. Viala argued that Josef Silny & Associates did not evaluate his entire MS transcript and that he had 18 credits of humanities.

Dr. Bauer stated the humanities courses to be college level courses. Mr. Flury suggested that he contact Silny to ensure that all material submitted was evaluated. If this is pursued, the Board could continue the hearing until staff receives the final commentary from Silny and Associates.

Upon motion by Dr. Bauer, seconded by Dr. Earle, this case was continued. The revised evaluation should be submitted to the Board office for review in the May application meeting. If the file remains denied, the hearing will continue on the June board agenda.

#3. Zuhail Ozturk

Mrs. Ozturk was not present at the hearing.

Mrs. Ozturk applied to sit for the Principles & Practice Examination. Her application was denied by the Board on 07/16/2008 based on education. Mrs. Ozturk holds a Bachelor Degree in Environmental Engineering and a Master of Science Degree in Environmental Engineering from the Istanbul Technical University in Turkey, she also holds a PhD in Civil Engineering from The Florida International University. The Board reviewed the evaluation of her two foreign degrees by Joseph Silny & Associates, Inc. and her additional PhD transcript to determine substantial equivalency of her combined education to Rule 61G15-20.007, F.A.C. Mrs. Ozturk was determined to be deficient 13 hours of Humanities and Social Sciences.

Upon motion to deny the application by Dr. Bauer, seconded by Dr. Earle, the application was denied.

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

#1. Binoy Koodhathinkal

Mr. Koodhathinkal holds a BS from the University of Mumbai, and an MS from the University of Central Florida. He passed the FE exam in Ohio in April of 2004 and passed the PE exam in Maryland in October 2006, as well as evidenced four years of experience.

CPEES evaluated his degree and determined he was deficient 11 hours in math and basic science and 13 hours in humanities and social science. His application was submitted to the Board for review on November 12, 2008 and was denied due to this deficiency. Mr. Koodhathinkal returned his Election of Rights requesting an Informal Hearing. He also included a letter stating that the math and basic science requirements were met with both of his degrees and asked for leniency in regards to his humanities and social science deficiencies.

Mr. Koodhathinkal's application was brought back to Application Review on January 14, 2009 and his 13 hours of humanities and social science were waived based on the fact he has now been licensed for two years. His denial was upheld based on lacking 11 hours in math and basic science.

Upon motion to deny the application by Dr. Earle, seconded by Mr. Wallis, the application was denied.

#2. Donald C. Sherrill

Mr. Flury advised the Board that Mr. Sherrill asked to withdraw his application.

Upon motion to accept the withdrawal by Dr. Bauer, seconded by Mr. Wallis, Mr. Sherrill's request to withdraw his application was granted.

Disciplinary Hearings

H. Settlement Stipulations

#1. Peet, Stiles T., PE 49200
FEMC Case Number 2007043799
Probable Cause Panel:Rebane, Seckinger

Mr. Peet was present and sworn in prior to addressing the Board. He was represented by counsel, Mr. Kenneth Sundheim, Esquire.

Mr. Charland recused himself from this case.

In the Administrative Complaint, it was charged that the Engineer of Record communicated his design intent for the Project including the roof trusses to Mr. Peet in April 2007 and was therefore ready to receive the completed delegated roof truss design from Mr. Peet within a reasonable period of time. At the time Probable Cause was found it was believed the six preliminary submissions failed to adequately address revisions required by the Engineer of Record which had been made clear to Mr. Peet in the initial submission provided by Mr. Peet and as a result of Mr. Peet's failure to perform his duties as Delegated Engineer, it took four months for the roof truss design approval process to be completed whereas a reasonable period of time for approval for a structure such as the Project would be no more than one month (30 days).

However, subsequent to the filing of the case, discovery resulted in additional documentation being submitted by Mr. Peet. This documentation was reviewed by FEMC Consultants. On August 22, 2008, the initial consultant revised his opinion as follows: "...further review of the file materials and design/submittal process indicated that the licensee was not solely responsible for the delays encountered and should not be charged with FS 471.033(1) (g) (negligence and misconduct) and FAC 61G15-30.006 by causing delay to the project." The second consultant concurred in his August 22, 2008 opinion.

On January 17, 2008 Probable Cause was found and an Administrative Complaint issued. Mr. Peet requested formal hearing at DOAH which was ultimately set for September 2008. On August 27, 2008, the parties entered into a signed stipulation to resolve this case.

PCP Recommendation: Reprimand; \$2,000.00 administrative fine (\$1,000.00 per count for (2) counts); costs of \$2,181.53; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on 2 year(s) probation with plan review (5 truss projects for each review period) at 6 and 18 months; Board approved course in Engineering Professionalism and Ethics; study guide; on-site visit by Board Investigator; and appearance before the Board to explain: what steps he's taken to maintain control of his seal, and his understanding of the responsibility rule.

Stipulation: Dismissal of Count I of the AC (the count relating to the delay in finalizing the design documents). Respondent agrees to pay Costs in the amount of \$306.53. Appearance for Mr. Peet to discuss: (1) the procedure(s) that he has put in place through which he can assure the Board that he will maintain control over the manner by which his P. E. seal will be applied to truss design documents; (2) the procedure(s) that he has put in place by which he can assure the Board that he will personally and physically sign each page of all sealed final engineering design documents; (3) the procedure(s) that he intends to use to electronically

seal, sign & date engineering design documents in accordance with Rule 61G15-23.003. Board approved course in Engineering Professionalism and Ethics; study guide; on-site visit by Board Investigator at Mr. Peet's expense. Issuance of a Letter of Guidance to Mr. Peet reflecting that (1) he is aware that his previous use of a signature stamp was in violation of the Board's rules and (2) that the affixing of his seal to engineering documents by others at a location(s) that was not under his direct control and supervision was a violation of the Board's Rules. Mr. Peet 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. Burke asked Mr. Peet to discuss the procedures that he put into effect. Mr. Peet explained that the procedures are that he has a seal, one is a hand crimper and one is electric, it's a two hand operation, the only time he uses the electric seal is when he has 100's of sheets to seal. Never in twenty years has the seal left his office with exception of this incident. Mr. Peet stated he signs and seals every single drawing himself. His company employs five individuals. He works on every project that comes through his office and he signs and seals everything. At the time he was unable to use his right arm, he had his clerical assistant help him with that. Pursuant to doctor's orders, he got a rubber stamp to use when his right arm is not functional. The amount of business is small and he does all the signing and sealing, only using the rubber stamp when his arm was not functional. For the truss company, there were so many documents and he didn't have staff available to help him with signing and sealing and it came down to a matter of coordinating schedules. A lot of his day is out at projects performing inspections and site reviews. It became easier to stop by the truss company where there is a designated area for crimping so every day or nearly every day he was involved in their office, not physically, but watching the crimping or seeing that it had just been done. The procedures now in effect are that the seal was recalled and he demanded the truss company send someone down who sat at a designated desk and physically went one by one and put the papers in one by one as he watched. The reason he was signing and sealing the previous way was because he was unable physically to do sign and seal without endangering the use of his right arm. He set up the FETS program signature; however, the technology is ahead of the building departments and it is not accepted.

Upon motion to accept the stipulation by Mr. Tomasino, seconded by Ms. Garcia the Settlement Stipulation was adopted.

- #2. Contreras, Remberto, PE 21522
FEMC Case Number 2008015766
Probable Cause Panel:Rebane, Seckinger

Mr. Contreras was present and was sworn in prior to addressing the Board. He was represented by counsel, George Frances.

Mr. Contreras was Structural Engineer of Record for the design of an aluminum stairway to be constructed on a building. As such, Mr. Contreras sealed, signed and dated a set of structural engineering design documents and calculations which were filed as part of the application for a building permit with the City of Coral Gables Building Department (the City). The last iteration of Mr. Contreras's engineering design drawings for the Stairway Project filed with the City were sealed, signed and dated on December 20, 2007 and February 11, 2008. The calculations were sealed, signed & dated by Mr. Contreras on December 12, 2007.

The design drawing documents for the Stairway Project reflect Mr. Contreras's design decisions for the structure of the proposed stairs. As such, the design decisions are only valid if they are reflective of engineering judgment grounded upon, in material part, engineering calculations upon which the design is based. The underlying calculations for the Stairway Project were deficient and failed to comply with acceptable standards of engineering practice in the following particulars: Mr. Contreras's drawings and calculations for the project contain deficiencies including, but not limited to, those set forth in Paragraph 4. Mr. Contreras has therefore violated the provisions of Section 471.033(1)(g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by sealing, signing and dating engineering documents that were issued and filed for public record when such documents were materially deficient in respect to and not in compliance with applicable code requirements or acceptable engineering principles.

Based on the foregoing, Probable Cause was found and Mr. Contreras was charged in an Administrative Complaint with violating Section 471.033(1) (g), Florida Statutes, and Rule 61G15-19.001(4), F. A. C., by being negligent in the practice of engineering.

The parties entered into a Stipulation accepting the recommendations of the probable cause panel to resolve this matter.

The PCP recommendation was a reprimand; costs of \$500.00; suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Restriction from practicing structural engineering until he takes and passes and submits proof of passing the NCEES Structural 1 or equivalent. Board approved course in Engineering Professionalism and Ethics; Study Guide, and Appearance before the Board to explain: what areas of engineering he feels he is competent to practice, and his experience and courses (documentation to be brought before the Board) he has taken to support competency.

Mr. Burke asked Mr. Contreras to explain what areas of engineering he is competent to practice. Mr. Frances translated Mr. Contreras' responses. He explained that Mr. Contreras had experience in civil and structural engineering. Mr. Contreras works in a factory and is the only engineer employed with the company.

Mr. Burke asked Mr. Contreras what type work he would do if the stipulation was accepted. Mr. Contreras indicated that he would continue working as a civil engineer. Dr. Hyder asked Mr. Contreras to explain what he defined as civil engineering. Mr. Contreras responded that he would do water and sewer work, laying pipe.

During discussion the Board expressed concern that Mr. Contreras will have a difficult time complying with restrictions from structural engineering. They were also concerned with any other type of engineering to be performed. However, failure to accept the stipulation would allow continued practice until the matter is resolved. In view of this determination the following action was taken.

Upon motion to accept the stipulation by Mr. Charland, seconded by Dr. Bauer, the Settlement Stipulation was adopted.

- #3. Bishop, Gary, PE 25357
FEMC Case Number 2006036172
Probable Cause Panel: Rebane, Seckinger

Mr. Bishop was present and sworn in prior to addressing the board.

This complaint is predicated on a complaint that the Respondent made false statements in his engineering roof truss inspection dated December 23, 2005 (Truss Affidavit). Respondent's inspection report stated he inspected the roof truss system and it was installed correctly with no visual discrepancies. A second opinion found numerous discrepancies in the installation of the roof truss system. On April 17, 2006, Respondent wrote to the complainants stating that there were several deficiencies and deviations from the original plans he provided for the residence and that he had not inspected the trusses.

The case was presented to the Probable Cause Panel on May 20, 2008 and a two-count Administrative Complaint was filed, one count of fraud/deceit in the practice of engineering and one count of making a report that the licensee knows to be untruthful.

The Respondent signed this settlement stipulation adopting the probable cause recommendation and requesting a modification allowing him to pay the fines and costs in 90 days as opposed to 30 days, in lieu of further formal proceedings.

The recommendation of the Probable Cause Panel was a reprimand; \$4,000.00 administrative fine (\$2,000.00 per count for (2) counts); costs of \$1,648.12; Subject will be placed on (2) year(s) probation with plan review at 6 and 18 months; Board approved course in Intermediate Level Engineering Professionalism and Ethics; and appearance before the Board to explain: the obligations of Certification, and it's importance; and his previous appearance before the Board, and why he is appearing for a similar mistake again.

Mr. Bishop addressed the Board by stating it was never his intent to commit fraud. He was asked by the contractor to look at something and he did. His error was in stating the truss system was okay without conducting an inspection of the system. He reaffirmed future plans to comply with the rules for certification.

Mr. Halyard asked Mr. Bishop if he ever visited the site. Mr. Bishop responded by stating he had visited the site twice he simply did not conduct an inspection of the full truss system.

Mr. Burke asked about his previous disciplinary case. Mr. Bishop responded by confirming a previous action for deficient plans.

Upon motion to accept the stipulation by Mr. Tomasino, seconded by Ms. Garcia, the Settlement Stipulation was adopted with amendment to allow Mr. Bishop 90 days to pay the fines and costs.

- #4. Hodge, Gray, PE 45676
FEMC Case Number 2007065928
Probable Cause Panel: Waived Probable Cause

Mr. Hodge was present and was sworn prior to addressing the Board. He was represented by counsel, Kathryn Kasprzak.

The investigation was predicated on the receipt of a complaint filed alleging the Respondent's design and calculations for a 310-foot microwave tower were deficient. The project is identified as the C-18 Tower located in West Palm Beach, Florida. The Complainant alleged that the Respondent provided calculations for the shear strength of the connector plates, which were correct, but did not address bending moments. SFWMD subsequently rejected the tower design based on deficiencies of the design and directed the complainant to provide a revised tower design in accordance with the contract documents.

The Respondent waived probable cause via this settlement stipulation and in lieu of any formal administrative proceedings, the parties reached the terms included in this settlement agreement. The terms of the settlement are a \$2,500.00 administrative fine and costs of \$2,000.00, a reprimand, probation for two (2) years with project reviews at six (6) and eighteen (18) months, a course in Professionalism and Ethics, study guide and an appearance before the Board at the presentation of the stipulation.

Mr. Burke asked Mr. Hodge to describe the size of his business and how he operates. Mr. Hodge explained that his company is small with two graduate engineers, a drafter, and an office manager. Mr. Hodge is a structural engineer and they work with architects in site specific design for installation of towers.

Mr. Hodge explained from the time this incident occurred he put into place a procedure to review connections and be responsible for the entire tower project. He also stated he would no longer accept a scope of service defined by the client. He will develop the scope of service.

Upon motion to adopt the stipulation by Dr. Bauer, seconded by Mr. Charland, the Settlement Stipulation was adopted by majority vote.

- #5. Abcug, Irving, PE 28376
FEMC Case Number 2007033986
Probable Cause Panel: Rebane, Seckinger

Mr. Abcug was present and was sworn prior to addressing the Board. He was represented by counsel, Diane Parrera.

This investigation is predicated on the receipt of a complaint alleging the residential plans submitted by the subject firm to the Parkland Building Department have been rejected several times. Complainant states she contracted to build a house in Parkland, Florida. The house plans were prepared by an Architect and the Engineer of Record was Irving Abcug.

On May 20, 2008 Probable Cause was found and an Administrative Complaint was issued and served. Mr. Abcug, through counsel, elected a formal hearing at DOAH. After significant discovery, the parties entered into a Stipulation on January 8, 2009. This Stipulation is being presented to the Board. The terms of the Settlement Stipulation are different from the recommended penalty by the Probable Cause Panel.

The PCP recommendation was a reprimand; \$5,000.00 administrative fine (\$5,000.00 per count for (1) count); costs of \$2,924.64; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Subject will be placed on (2) year(s) 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: the quality of his plans, and what steps he plans to take to improve them; and his compliance with the Florida Building Code.

The terms of the Settlement Stipulation was reprimand; costs of \$6,403.64; suspension of licensure, stayed & vacated if fine/costs paid within 1 year of Final Order date; Subject will be placed on (2) year(s) probation with plan review at 6 and 18 months; The second year of probation will be terminated early if, at the sole discretion of the Board Consultant and the Board, it is determined that the initial plan review report was "favorable" (defined in the Stipulation as being free of any material deficiencies); Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain: the quality of his plans, and what steps he plans to take to improve them; and his compliance with the Florida Building Code.

Mr. Rimes advised the Board that Mr. Abcug is requesting a payment plan of one year.

Ms. Parrera explained when Mr. Abcug was hired, he re-worked and re-thought his designs. He did the calculations necessary and marked up the drawings so they would reflect his ideas of how it should be done. Another person made the changes. His comments on 11/6 said that basically there were two items. Since he did his initial design changes on the drawing, it only had gone through one review and was accepted the third time he reviewed the drawings.

Mr. Burke asked if Mr. Abcug worked alone. Mr. Abcug advised that he has another engineer who works for him along with a drafting person and a secretary.

Upon motion to adopt the stipulation by Mr. Charland, seconded by Dr. Bauer, the Settlement Stipulation was adopted.

- #6. Hassoun, Mouaffak, PE 61969
FEMC Case Number 2007047573
Probable Cause Panel: Rebane, Burke

Mr. Rimes advised the Board after the case was noticed, he received a Motion for Continuance, due to a scheduling conflict by Mr. Hassoun's attorney. Mr. Rimes did not object to the continuance.

Upon motion to continue this case by Ms. Garcia, seconded by Ms. Young, the continuance was granted.

- #7. Kosinski, Joseph, PE 52288
FEMC Case Number 2006041434
Probable Cause Panel: Rebane, Seckinger

Mr. Kosinski was present and was sworn prior to addressing the Board. Mr. Kosinski was not represented by counsel.

This investigation is predicated on the receipt of a complaint alleging that drawings signed & sealed by Mr. Kosinski did not meet minimum standards for engineering. Mr. Kosinski designed a one-story conversion of a car wash into a convenience store.

Probable Cause was found and an Administrative Complaint was issued and served. Mr. Kosinski, through counsel, signed a Settlement Stipulation. The terms of Settlement Stipulation did not follow what was recommended by the Probable Cause Panel.

The PCP recommendation was a Reprimand; \$1,000.00 administrative fine (\$1,000.00 per count for (1) count); costs of \$2,073.19; Subject will be placed on

(2) year(s) 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: why he did not respond to the complaint against him; and to discuss each item in detail that was noted in the Consultants report regarding the complaint.

The Settlement Stipulation terms are reprimand; costs of \$2,073.19; Board approved course in Engineering Professionalism and Ethics; study guide; and appearance before the Board to explain how, in his present engineering practice, he will assure that sealed and signed engineering documents will either be complete and ready for final permitting or, if intended for some more limited purpose, such as site plan review, will bear adequate disclosure as to the purpose for which the documents have been produced.

Mr. Kosinski advised the Board that the plans were for a limited use only and not intended to represent a full project.

Mr. Burke asked Mr. Kosinski to address the Board as agreed in the Settlement Stipulation.

Mr. Kosinski indicated that he has been practicing engineering for about 27 years, licensed for 24 years and within the past seven years he has owned his own business. This project came up very early in his practice. He and his associates worked on the project to develop contract documents. Early into the design development, the county said they needed a new site development plan. That project was turned over to a firm specializing in site development. That firm was given the signed and sealed contract documents and these documents were used for permitting. His firm now sets up base sheets and all documents state not for construction. Prior to applying for a permit the statement is removed and the documents are sealed as final documents.

Upon motion to adopt the stipulation by Dr. Bauer, seconded by Ms. Garcia, the Settlement Stipulation was adopted.

I. Informal Hearings

- #8. Earhart, Jeffrey Jay, PE 49935
FEMC Case Number 2007063583
Probable Cause Panel: Rebane, Burke

Mr. Earhart was present and sworn in prior to addressing the Board. He was represented by Counsel Ed Bayô'.

This investigation is predicated on the receipt of a complaint alleging that Jeffrey Earhart of TEK Science and Engineering plagiarized the submitted technical proposal from a proposal submitted by another corporation for the same RFP. It was further alleged that Mr. Earhart falsely reported the names of employees not actually employed, to SWFWMD for minimum staffing payroll qualification and

falsely claimed responsibility for projects that had not been done by TEK. All of this purportedly false or deceptive information was alleged to have been included in a response to an RFP filed with SWFWMD by TEK.

Subject was notified of this complaint by Certified Letter dated 11/27/07. TEK has a current Certificate of Authorization.

On September 16, 2008, Probable Cause was found and an Administrative Complaint was issued and served charging a violation of Section 471.033(1) (f), Florida Statutes, Rule 61G15-19.001(2), Florida Administrative Code, 471.033(1)(f), F.S.

Respondent, through counsel, requested an informal hearing under Sections 120.569 and 120.57(2) and Rule 28-106.301 to 28-106.307. Respondent has submitted an additional statement, in mitigation and explanation, dated January 7, 2009 which should be considered by the Board at the hearing.

The PCP recommendation **was** a reprimand; \$1,000.00 administrative fine (\$1,000.00 per count for (1) count); costs of \$195.00; Suspension of licensure, stayed if fine/costs paid within 30 days of Final Order date; Board approved course in Engineering Professionalism and Ethics; Study guide; and Appearance before the Board to explain: his understanding of the CCNA process, and the standards that must be met.

Mr. Bayô addressed the Board and Mr. Earhart responded to questions.

There was discussion as to the relationship between the two companies and their ties to each other through the qualifier (Mr. Earhart). “The employment relationship, like any other contract, arises through a meeting of the minds. There is absolutely nothing to indicate that the persons listed by TEK did not consider themselves as employees of TEK or that they would not be available immediately to work on this project if TEK was awarded the contract. Our client’s proposal was not contrary to any specific provision of the minimum staffing requirement listed in the RFP.”

Mr. Rimes explained the facts of the case and the following motion was made.

Upon motion by Mr. Halyard, seconded by Ms. Garcia the Findings of Fact as set forth in the Administrative Complaint as the Board’s Findings of Fact. The motion passed.

Mr. Burke reminded Mr. Rimes that Mr. Earhart needs to address the Board to answer questions and concerns.

Mr. Bayô advised the Board of Mr. Earhart’s cooperation with the prosecutor during the process and the fact he did not dispute the mistake.

Discussion followed on Mr. Earhart's relationship with both companies referenced in the investigative file. Mr. Earhart confirmed he serves as qualifier for both companies. Mr. Earhart expressed his concern with this situation. He stated he recently started the small firm of TEK. He had given too much control. Quality control rests with him as the qualifier and as a stockholder. He also made the mistake of signing without adequate attention to detail. He prided himself by promoting to engineers the value of their reputation. Mr. Earhart stated the marketing person listed the wrong names and did not ask for clarification. As the engineer he did not properly review the RFP.

Upon conclusion of discussion the following action was taken.

Upon motion by Mr. Halyard, seconded by Ms. Garcia the Findings of Fact in the administrative complaint were adopted.

Upon a motion made by Mr. Wallis seconded by Mr. Tomasino, the Conclusions of Law were adopted by majority vote.

Upon motion by Mr. Halyard, seconded by Tomasino, the PCP recommendation was adopted by majority vote and the present appearance will satisfy the appearance requirement in the Final Order.

- #9. Giles, David, PE 45676
FEMC Case Number 2008008431
Probable Cause Panel: Rebane, Burke

The complainant, the building official for the Hamilton County Building & Zoning Department, alleges that a residential roof had been installed without a permit and that the subject subsequently provided a "Certification of Inspection – Roof Dry-In" and an "Affidavit of Inspection – Final" letter without actually performing the inspections. The building department performed its own inspection and found several clearly visible deficiencies in the roof construction.

On September 16, 2008 Probable Cause was found and an Administrative Complaint was issued. The Probable Cause Panel recommended a reprimand; \$5,000.00 Administrative fine (\$5,000.00 per count for (1) count); costs of \$1,010.00; Suspension of licensure for one (1) year(s); Appearance required by Subject to lift suspension at end of suspension period. Subject will explain to the Board: his understanding of signing, sealing, and dating certifications as an engineer; Board approved course in Engineering Professionalism and Ethics; and Study Guide.

Upon motion by Dr. Bauer seconded by Ms. Garcia, the Board adopted the Findings of Fact and Conclusions of Law set forth in the Administrative Complaint as the Board's Findings of Fact and Conclusions of Law.

Mr. Giles was present and sworn in prior to addressing the Board.

Mr. Giles addressed the Board by stating that he did not visit the job site for final inspection prior to issuance of a Letter of Certification. His procedure called for inspection and writing of a Letter of Certification. The first project encountered problems due to an incorrect address provided by the contractor. They asked for the second letter of final inspection, it took three weeks, he couldn't get by the site, his parents were ill and in fact one passed away. His business was encountering problems and he and his partner were separating the business interests. During this time the issue with the first letter arose. With separation of the business he no longer has any information on record. The partner has the business records. On the strength of the photos he'd seen earlier on the dry end repairs and the fact the building official certified the job in August of 2007 he provided the final certification letter. It turned out the building official filed the complaint. He attempted to make things right but was denied access to the property. Mr. Giles stated that he has a much better understanding of the proper procedures to be followed in issuance of the certifications. He asked for consideration of a payment plan.

With conclusion of discussion, Mr. Flury reminded the Board they must set a penalty.

Upon a motion by Dr. Bauer seconded by Mr. Charland the PCP recommended penalty was adopted. The motion passed.

- #10. Yazji, Kamal
PE 51542
FEMC Case Number 2007038155
Probable Cause Panel: Rebane, Charland

Mr. Creehan advised the Board of a hand-out presented by Mr. Yazji. It cites disputing materials facts. This requires a formal hearing and the case should be pulled from the agenda.

- J. Application Review & Educational Committee Meeting
- K. Approval of the Consent Agenda
(Items denoted with an asterisk are included in the Consent Agenda*)

Upon motion by Mr. Charland to adopt the consent agenda, seconded by Dr. Earle, the motion passed.

- J. Application Review & Educational Committee Meeting

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

Upon motion by Mr. Charland seconded by Dr. Earle, consent agenda was adopted. The motion passed.

- L. Review and Approval of previous Board meeting minutes

- #1. Minutes from the December 3-4, 2008 Board Meeting*

Consent Agenda

- #2. Minutes from the January 23, 2009 Conference Call*

Consent Agenda

- M. Committee Reports

- #1. Applications Committee (**Next Meeting March 18, 2009**)
(John Burke, P.E., Chair; David Charland, P.E.; Zafar Hyder, Ph.D., P.E., Nola Garcia) (Alternates: Christian Bauer, Ph.D., P.E.; Paul Tomasino, P.E.)

- a. Committee Chair's Report.

Mr. Burke confirmed the March 18, 2009 date for the next application/educational advisory committee meeting. He would announce committee appointments under Chair's Report. With a full Board compliment the Chair asked for comments on establishing a rotation schedule for application committee meetings. This will assist Board members in the amount of time involved for meetings and will reduce expenses for travel when workloads do not require full participation of the Board to conduct the review.

Mr. Tomasino noted conflicts with two scheduled review dates. The Board was supportive of the rotation schedule and with rotation it may assist Mr. Tomasino in his planned absences.

- #2. Educational Advisory Committee (**Next Meeting March 18, 2009**)
(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) (Alternate: Zafar Hyder, Ph.D., P.E.)

- a. Committee Chair's Report.

Mr. Burke deferred his report for later in the meeting.

- #3. Probable Cause Panel (**Next Meeting March 17, 2009**)
(David O. Charland, P.E, Chair, Henn Rebane, P.E.,) (Alternate: John Burke, P.E.)

- a. PCP Memo from January 13, 2009 Meeting*

Addressed under consent agenda.

- #4. FBPE Rules Committee (**Next Meeting March 17, 2009**)
(John Burke, P.E., Chair; Henn Rebane, P.E.; David Charland, P.E., Paul Tomasino, P.E.)

- a. Committee Chair's Report.

Mr. Burke stressed the importance of assembling all items for the rules committee. Through a coordinated effort the rules committee can move forward in an organized and effective manner.

- #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. Geer confirmed no legislative issues by FES in this upcoming session.

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

- a. Committee Chair's Report.

No report.

- #7. Structural Rules Committee
(David O. Charland, P.E., Chair)

- a. Committee Chair's Report

Mr. Charland reported on completion of the proposed rules for structural engineering by FES and FSEA. The proposed drafts will be presented to the FES Board of Directors on Tuesday March 17, 2009. If approved the proposed rules will be forwarded to the Board office and should appear on the agenda for the March Rules Committee meeting. Mr. Burke asked Mr. Rimes and Mr. Flury to

review the delegation rules as soon as possible to ensure continuity with other delegated rules.

N. NCEES
(John Burke, P.E., FBPE Liaison)

Mr. Burke advised the Board of his plans to attend the President's Counsel in Atlanta along with Ms. Flynn. He reminded everyone of the upcoming Southern Zone meeting in May and asked if any Board members wished to attend. Mr. Wallis, Mr. Charland and Dr. Hyder expressed an interest. Staff will be confirming final plans in the very near future to meet registration deadlines. Mr. Burke stated attendance by all Board members for zone meetings is not necessary. The Annual Meeting is more detailed as national guidelines are established during the meeting. He does encourage the Board to be active in NCEES.

#1. Memo from Doris I. Willner, P.E., Chair, Special Committee on Bylaws regarding Proposed Amendment to NCEES Bylaws

This item is included for information only. This item will be voted on in the annual meeting. Mr. Burke confirmed the right of the Board to designate the Executive Director to vote on agenda item if Board members are unable to attend. Appropriate notice must be given to Council to confirm the delegation of authority. The change in terms of office is clarify that completion of partial term will not count in the ability to serve to full terms.

Mr. Burke confirmed his attendance for the Law Enforcement Committee in Tampa. There are number of changes being considered that are beneficial .

#2. Letter from Robert Whorton, IV, P.E., NCEES Compliance and Security Manager regarding Irregularity during the October 28, 2008 exam and the Findings

Mr. Burke outlined the procedures followed by NCEES in reviewing examinations after administration. Once the computer program analyzes the examination performances should there appear to be irregularities a report is generated and forwarded to the appropriate Board for investigation. Following the investigation, the Board determines if there is any basis for cancelling the results of the examination. The present investigative report was before the Board for review. The Board accepted the investigative report and the following action was taken.

Upon motion by Mr. Tomasino, seconded by Dr. Earle the investigative report was accepted and staff was authorized to release the report to NCEES and allow the results for the two candidates to stand as reported.

O. Advisory Attorney's Report

- #1. Letters from JAPC regarding Rules 61G15-19.004, 61G15-32.002, .003, and .008, F.A.C.

Mr. Flury received several letters requesting updates and status on rule language. One specific item refers to the need to state what version of the Florida Building Code applies when referenced in the rule. Mr. Flury advised that it was a technical change and did not require a vote.

Mr. Flury also presented a draft of Rule 61G15-22.0105, F.A.C. which relates to Continuing Education Laws & Rules Rule.

Mr. Burke reminded the Board this rule stems from action previously taken during a Board conference call.

Mr. Flury then explained further that what this language does is put in the rule the forms which were previously approved. The underlying language plus the form number which will be added once approved and then the effective date which will be the date it was approved. There are two other items that have been added. One is related to when a course is reapproved it gets a new course number. This change would allow the course number to remain the same. The second issue is related to several petitions for variance and waiver. The way the rule used to read, continuing education approval is valid for the biennium for which it was approved. We had people arguing that if they were approved in the middle of a biennium and if the course was given a month before they were approved then it should be approved as well. Mr. Flury does not necessarily agree with that but has provided the updated language for clarification. It has been changed so that the approval is valid from the date it is approved by the Board forward.

Upon motion by Mr. Tomasino, seconded by Mr. Tomasino the language was accepted. The motion passed.

The language approved is as follows:

61G15-22.0105 Approval of Continuing Education Courses in Laws and Rules. Each course provider approved by the Board to conduct courses in Florida Laws and Rules must meet the requirements of Rule 61G15-22.011, F.A.C., and shall submit an application for approval of a continuing education course in Laws and Rules, Form # ---, effective ----, which can be obtained from the Board office at 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303. The application shall be submitted on the course approval application provided by the Board and shall include the following:

(1) – (5) No change.

(6) Continuing education course approval is valid ~~for~~ from the date the course is approved by the Board until the end of the biennium during which it was approved, provided no substantial change is made in the course and the approval status of the

provider has not expired or been suspended or revoked. Substantial changes made in any course will require a new approval of that course. A provider must ~~reapply for course approval~~ submit an application for renewal of the course, Form # ---, effective ----, which can be obtained from the Board office at 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303, ninety (90) days prior to the date of the end of the biennium which would be the expiration of course approval in order to prevent a lapse in course approval.

(7) ~~If a course is approved,~~ When a course is initially approved, the board shall assign the course a number. The course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course and in all written advertising materials used in connection with the course. The course shall keep the same course number upon renewal.

Specific Authority 455.2123, 455.213, 455.2179, 471.017(3), 471.019 FS. Law Implemented 455.2123, 455.213, 455.2179, 471.017(3), 471.019 FS. History–New 4-8-07, Amended 4-28-08.

Mr. Flury presented a chart associated with 61G15-19.004, F.A.C. JAPC decided there needed to be a subcategory associated with negligence. After discussion with Ms. Holliday, we compromised and determined when the subcategory is created, we do not need to use the word “minor”. If you look at the misconduct rules, there are subsets under that, and this would be another subset of negligence where the penalty is different. What has been added is 2(a) negligence and procedural requirements. These rules relate to delegation, and the rules related to the requirements that are procedural.

Upon motion by Mr. Tomasino, seconded by Ms. Garcia the language was accepted. The motion passed.

The language approved is as follows:

2. a. Negligence (subsection 61G15-19.001(4), F.A.C.)	<u>Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine, five (5) year suspension and ten (10) years probation</u>	<u>Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation</u>
<u>b. Negligence in procedural requirements (61G15-30.003(2)(3) and (5), F.A.C.; 61G15-30.005 and 61G15-30.006, F.A.C.)</u>	<u>Reprimand to two (2) years probation and \$1,000 fine,</u>	<u>Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation</u>
<u>c. As a special inspector</u>	<u>Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine,</u>	<u>Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation</u>

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

Mr. Flury stated all of the rules approved in December are in process. There are no letters from JAPC on present rules. The one letter commenting on the Fire Protection Rule is to be resolved with change in wording. The rule will now be adopted.

Mr. Flury asked for discussion on a previous action taken by the Board. The Board voted to apply the required statement of estimated regulatory costs to the rule deleting ability to achieve continuing education credit for attending the second day of the Board meeting. In further review it is indicated there is no small business impact. The confusion in the matter occurred as a result of addressing this rule and any future possibility of approving video tape laws and rules sessions. These are two distinctly different rules. Anyone can video tape Board meetings as they are open to the public. Should a meeting be videotaped and an application submitted for continuing education credit the board will address at that time. With this clarification the following action was taken.

Upon motion by Ms. Garcia seconded by Mr. Wallis this rule change is deemed to not have an effect on small businesses. The motion passed.

**BOARD OF PROFESSIONAL ENGINEERS
RULES REPORT
January 2009**

Rule No.	Title	Develop. Published	Notice Published	Adptd.	Effect.
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The following rules are **ON HOLD** or **PENDING**:

61G15-19.004	Disciplinary Guidelines..	3-7-08	8-8-08	(Waiting for Board to resolve JAPC issues)	
61G15-32.001	General Responsibility	11-21-07 27-09)	3-14-08	(Notice of Change to be submitted 1-	
	.002	Definitions			
	.003	Comm. Req. to all Fire Protectn.Eng.Docs.			
	.008	Design of Fire Alarms, Signal and Control Systems			

The following rules are **IN PROCESS**:

61G15-18.011	Definitions	1-30-09			
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	C.E. Requirements	8-8-08			
61G15-22.011	Bd. Appr. Of CE Prov.	8-1-08			
61G15-23.002	Elect. Seals, Signatures	8-1-08	1-16-09		
	.003	And Procedures			
61G15-35.004	Common Requirements	1-16-09	2-6-09		
61G15-37.001	Perform. Stds. And	8-1-08			
	Meas. Outcomes				

The following rules are **ADOPTED**:

61G15-18.011	Definitions	12-7-07	4-11-08	5-16-08	6-5-08
61G15-30.001	Purpose	12-7-07	3-14-08	10-24-08	11-13-08
	.002				
	.003				
	.005				
	.006				
	.007				
	.009				
	.010				
61G15-33.001	General Responsibility	12-7-07	3-14-08	10-24-08	11-13-08
	.002				
	.003				
	.004				
	.005				
	.006				
	.007				
	.008				
	.010				
61G15-34.001	General Responsibility	11-21-07	3-14-08	10-24-08	11-13-08
	.002				
	.003				
	.007				

Petitions:

Grable Walls, et all (Petition for Variance) 7-25-08

FMAEF (Petition for Variance) 9-5-08

Upendra Poudel 10-17-08

Simon Coleman 11-14-08

Zhiyuan Cheng (Petition for Variance) 1-16-09

P. Executive Director's Report

#1. List of Applicants Requesting Retired Status*

#2. Attendance at Southern Zone Meeting

This was addressed earlier in the meeting.

Mr. Philip Mount filed an application for retired status. Mr. Mount's license is Null and Void and in actuality has no license to retire.

Upon motion by Ms. Garcia seconded by Mr. Wallis the application for retired status was denied.

Q. Chief Prosecutor's Report

#1. Non-Compliance Report

Two of the individuals reflected on the report have come into compliance. One remaining case was one Mr. Creehan attempted to resolve; with efforts failing an AC for non-compliance was filed.

#2. January Open Case Report

#3. Profile of legal cases by year

- a. Cases open for 1 year plus
- b. Total open cases by year

Mr. Creehan outlined the stats for cases opened for one year and total cases by year. It was noted for the record that one item addressing ten cases against the same licensee is moving forward. There were several reasons for the delay in processing through to completion.

In discussion the Board raised concerns for cases reflected outstanding for from 200 to 522 days. Mr. Creehan stressed efforts by legal to address these old cases.

#4. Environmental Engineers

Mr. Rimes asked for this item to be placed on the agenda for discussion. FEMC processed an unlicensed proceeding against a company for violation of advertising under Chapter 471, F.S. A Cease and Desist was issued. The Company complied with the Cease and Desist by changing the title from environmental to environment engineers. This is a modification to the title and Mr. Rimes believed it in the best interest of the Board to accept this change in title and the case closed. The company is not practicing engineering and they have a long standing history as a business entity in Jacksonville. Mr. Rimes wanted to close the case and allow them to continue practicing as environment engineers as he had extreme concerns with an ability to win any case that should develop out of the matter.

Mr. Burke called for a short discussion on protected titles for the benefit of the Board and audience. There are a number of situations where the word engineer or engineering may be used in a title. A Professional Engineer files a complaint for unlicensed practice. In many cases the practice is nothing more than cleaning air ducts or another primary

example is use of the title automotive engineer. In Chapter 471, there are specific protected titles named. Following the specific titles it goes into exemptions. Once you go into exemptions it becomes more difficult to protect the title engineer. Further the facts are such that pursuing any action is not beneficial to the Board. Mr. Rimes has explained that in cases where they are not practicing engineering it is extremely difficult to pursue a charge of unlicensed practice. Mr. Burke agrees with Mr. Rimes the title engineer is not protected.

R. Chair's Report

#1. Committee Assignments

The Chair announced the following committee appointments with exception of the Nominations and Unlicensed Activity Committee which would be named at a later date.

Applications Committee (John Burke, P.E., Chair, David Charland, P.E., Nola Garcia, Paul Tomasino, P.E., Paul Halyard, P.E., Mary Young, H. Dann Wallis, P.E.)

Educational Advisory Committee (Christian Bauer, Ph.D., P.E., Chair, Dr. Jonathan Earle, Ph.D., P.E., Zafar Hyder, Ph.D., P.E., Bijay Panigrahi, Ph.D., P.E., Melvin Anderson, Ph.D., P.E. (Consultant), R. Gerry Miller, Ph.D., P.E. (Consultant)

Probable Cause Panel (David O. Charland, P.E., Chair, Paul Halyard, P.E., Henn Rebane, P.E.,) (Alternate: John Burke, P.E.)

FBPE Rules Committee (John Burke, P.E., Chair; David Charland, P.E., Paul Tomasino, P.E., Jonathan F. K. Earle, Ph.D., P.E., H. Dann Wallis, P.E.)

FBPE Legislative Committee (Paul Tomasino, P.E., Chair, Christian Bauer, Ph.D., P.E., Mary Young)

Joint Engineer/Architect Committee (John Burke, P.E., Chair; Zafar Hyder, Ph.D., P.E., Nola Garcia)

Structural Rules Committee (David O. Charland, P.E., Chair)

#2. Unlicensed Activity Fund

Mr. Burke briefed the Board on his continuing efforts to research the possibility of this Board issuing a brochure on unlicensed activity. Ms. Flynn is securing copies of publications used by other states. Ms. Flynn will also check with the department regarding funding from the unlicensed activity account. Staff will come back with a report and sample materials.

#3. Educational Advisory Committee

Mr. Burke talked with Dr. Bauer regarding current makeup of the Educational Advisory Committee and officially adding Dr. Hyder and Dr. Panigrahi to the committee. This may alleviate the need to continue having Dr. Anderson and Dr. Miller attend. Dr. Anderson and Dr. Miller will attend the March review to provide training. Unless specific workloads require their attendance, future meetings will be covered by the Board members serving on this committee. Ms. Flynn will contact Dr. Anderson on this matter.

At the last Board Meeting, the Board discussed how Board members could reduce time away from the office for Board business. As part of an experiment this meetings called for disciplinary cases on the first day. To continue with this mode would require Mr. Geer and others that attend meetings to travel overnight. Based on the amount of time required for this present meeting he had extreme concerns with leaving April as a one day meeting. After discussion it was determined to re-notice the April meeting to begin at 1:00 p.m. Board Business will be addressed on the first day and hearings will be held on the second day.

It was the consensus of the Board to follow Mr. Burke's plan.

S. Correspondence to the Board

#1. Emails from Paul E. Curtis, Curtoom Companies regarding signing and sealing requirements

This email is before the Board because Mr. Curtis wants the Board to place the general response given by email on Board letterhead. The matter involves Broward County Schools and their requirement to have a prime professional issue a certification. The Board reviewed Mr. Rimes' response to Mr. Curtis. In summary, Mr. Rimes advised Mr. Curtis that any certification by an individual licensee or firm, serving as prime professionals on a design project and being required to certify as to professional design responsibility as EOR's over engineering design disciplines where did not actually act as EOR's would violate the Board's Rules requiring a PE to only seal sign and date engineering documents over which they are in responsible charge." When a PE acts as Prime Professional defined in Rule 61G15-30.002(2)), the PE accepts coordination responsibilities over the entire design team on a project. However, while the PE acting as Prime Professional, may act as an EOR on the project or a portion thereof, accepting Prime Professional responsibilities does not mean that such a PE is, simply by being Prime Professional, necessarily acting as EOR for all portions of a project. A PE may only act as EOR for a particular portion of a project if the PE is in "responsible charge" of that portion (see Rule 61G15-30.002(1)). To be in "responsible charge" a PE must meet the standards set out in Rule 61G15-18.001(1) which mandate that the PE actually exercise supervisory direction and control the decision making relating to the portion of the project over which the PE exercises such charge. Obviously, a PE cannot exercise such supervision and control if the PE is being asked to certify to the appropriateness of engineering decisions that are outside the

Professional Engineer's area of expertise. To accept such responsibility (by sealing a certification to that effect) would be a violation of Chapter 471 and the Rules (see Sections 455.227(1) (o), 471.025(3), 471.033(1), F.S.

In discussion it was determined to refrain from placing the response on letterhead. The Board cannot resolve or dispute the requirements put into place by the Broward County School Board as it relates to projects under their jurisdiction.

Mr. Curtis would be advised of the Board's decision.

#2. Email and letter from Brian R. Foster, F.P.E., CFSI, regarding the Delegated Engineer Rule

Mr. Burke reaffirmed completion of the revisions to the responsibility rules. With all of this work there are still some deficiencies in the fire protection sprinkler design rules. The problem is Fire protection sprinkler systems authority by rule design to a minimum and presentation to an installing contractor to do layout drawings. The layout drawings contain much more detail, details that should be addressed by the engineer.

Mr. Burke asked for the Board's consensus on his proposal to contact Brian Foster by phone with participation by Mr. Rimes to review the rules for further revisions. He will bring a report to the Board once completed.

The Board supported Mr. Burke's plan.

#3. Email from Patti Anderson of Department of Health and Emails from Terrance L. Lambert, NSE, PE, CPOI regarding CPSC Virginia Graeme Baker Pool & Spa Safety Act

Mr. Lambert's practice is pool inspections with the Department of Health. He is concerned with the new Federal Requirements for retrofitting existing drains to comply with Federal requirements. He believes the inspection and retrofitting should be performed by an engineer. He was also concerned with the Department of Health distributing forms to pool contractors. This form is deficient.

Mr. Vincent Assistant Bureau Chief for the Department of Health appeared on behalf of Ms. Anderson. Mr. Vincent explained the role of the Department of Health, various building departments within the state and how certification of swimming pools occurs. The issue presently is the change adopted by the federal government addressing. The Department of Health is working toward compliance with the Federal Guidelines. The question they pose to the Board is does a Professional Engineer in Florida working for the Department of Health have the authority to enforce a federal law. There is also the issue of declaring if inspection and retrofitting of pools is work that must be done by a Professional Engineer or work that can be done by the swimming pool contractors.

Mr. Burke believed the Board would be venturing into the unknown at this point especially trying to define what is engineering and what is not engineering as it relates to the placement and certification of the retrofitted drain covers. Further Professional Engineers are not held to policing this area. Mr. Burke believed the issue to be a legal interpretation.

Mr. Burke asked Mr. Rimes for his opinion. Mr. Rimes explained that the statutes do not make engineers policeman. They are not deputized by anyone to enforce anything. They have standards to operate under within the statutes. If a PE does not comply with the statute and rules they may be disciplined. There is nothing in this act that says an engineer should be disciplined for failing to enforce a building code or federal guideline

If there is a specific complaint filed with the Board it is investigated. To answer this type of question in general can be very risky. If there are parties that wish to receive a formal opinion, they have to file a Petition for Declaratory Statement. The opinion rendered is published in the form of a Final Order. Final Orders are subject to appeal which would result in a final order where everyone interested can show up and participate. DOH is in the process of rulemaking right now they could address these issues.

Upon conclusion of discussion, John suggested the Board direct the parties to file a Petition for Declaratory Statement if they are seeking the Board's official response to the questions being discussed.

#4. Email from Kim Ford, P.E., regarding construction plans

1) Must the cover sheet of all PE designed construction plans be signed and sealed by a PE/ EOR?

Since the Board of Professional Engineers' Rules require that professional engineers must sign and seal every page of construction plans, there is no specific requirement to seal and sign the cover page. However, if the cover sheet on construction plans has designs or specifications then yes, they need to be signed and sealed.

2) Must the "EXISTING SURVEY" sheet be signed and sealed by a PE or PLS or no one at all? The answer is as follows:

If the existing survey has already been signed and sealed by the PLS, there is no basis for the engineer to sign and seal the survey.

3) Must the landscape design plans be signed and sealed by a PE or other (landscape architect, or no one)? landscape design, if the engineer is qualified to do it then yes, seal and sign – we don't have incident language about landscape and john said nothing in that section - listen to tape ask the guy for more information

Engineers seal and sign engineering designs ONLY, not landscape architecture or landscape design. If the “landscape design” involves engineering, then a qualified professional can sign and seal the engineering contained therein.

4) Must the cover sheet be signed and sealed by each professional contributing to the construction plans or by the PE/EOR only, or no one?

See the answer to question 1, above.

#5. Final Order – Sheryl Lyn Braxton and Braxton Designers v. DBPR

This item is included for informational purposes. It reflects penalties that may be imposed on a Board when pursuing unlicensed cases.

#6. Email from Robert Bullard, P.E. regarding Rule 61G15-18.011, F.A.C.

Mr. Flury explains that this email is a comment on the responsible charge rule change. Mr. Burke believed the modified rule addresses the concerns.

Staff should advise Mr. Bullard of the modifications to the rule and the final version addressing his concerns.

#7. Email from Jo Moore, Environmental Director of Ranger Construction Industries, Inc., regarding qualification of engineers in erosion and sediment control

Ms. Moore posed the following in her email:

The Florida Dept of Transportation has implemented a “Developmental Specification” in which they are “passing” the responsibility for development of the project’s erosion & sediment control plan onto the contractor. They call for a PE (licensed in FL) who is qualified to develop the plan. Ms. Moore has problems with the requirement and DOT’s inability to provide resource of engineers qualified to write a plan for erosion & sediment control.

This Board advised staff to notify Ms. Moore of the requirement being one set by DOT and they should recommend engineers qualified in this area.

Correspondence from Enrique Uribe.

After a brief discussion, the Board determined staff should advise Mr. Uribe to file a complaint as the concerns outlined in the email might be determined a violation of the responsibility rules relating to design of fire protection systems.

T. Old Business

U. New Business

V. Ratification of Application Review Held Wednesday February 11, 2009

Upon motion by Mr. Wallis seconded by Dr. Earle, the actions of the Application and Educational Committees on 2/11/09 were ratified.

W. Public Forum

#1. Article from "The Miami Herald" regarding science and engineering through robotics

Ms. Flynn included this article as a means of confirming efforts by Board members to address professional societies or educational forums. Ms. Garcia was saluted by the Board for her efforts in working with schools in her area. Future agendas would allow general comments from all Board members regarding their appearance before schools, professional societies or other forums to address engineering.

Ms. Young announced efforts underway by IBM for a nationwide project called "E Week" and is geared toward middle and high school students and environmental engineering.

Robert Mackey with S2L, Inc., announced that the Florida Engineering Society (FES) and Florida Engineers in Education (FEE) are planning to do a joint conference at the FES Annual Conference at the "Breakers" in Palm Beach in August (6th to 9th) 2009. The FEE Conference themes are currently "Engineering Education Funding, Accreditation, Articulation, and PE Registration issues, as they relate to current and future engineering education." The planners of the conference are inviting representatives various national organizations to make presentations at the conference. Representative organizations include the American Society of Civil Engineers (ASCE), National Society of Professional Engineers (NSPE), National Council of Examiners of Engineering and Surveying (NCEES), American Society of Engineering Education (ASEE), the Association of American Colleges and Universities (AAC&U), and other organizations. It is an opportunity to find out more information about the current drive by many organizations to increase the education requirements for future engineers entering into professional practice.

X. Adjourn