

**Minutes for
The Florida Board of Professional Engineers
January 31, 2018 beginning at 1:00 p.m. or soon thereafter and
February 1, 2018 beginning at 8:30 a.m., or soon thereafter
Hyatt Place Orlando Airport
Orlando, Florida**

Part I – Wednesday, January 31, 2018

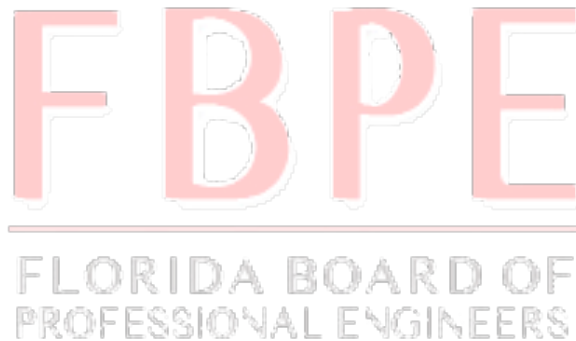
- A. Call to Order, Invocation, and Pledge of Allegiance to the Flag

Mr. Todd called the meeting to order. Ms. Raybon called roll.

- B. Roll Call, Determination of Quorum, and Address Absences.

Board Members Present:

Kenneth Todd, P.E., Chair
Kevin Fleming, P.E., Vice Chair
William Bracken, P.E., S.I.
Anthony Fiorillo, P.E., S.I.
Warren Hahn, P.E.
Michelle Roddenberry, Ph.D., P.E.
Pankaj (PJ) Shah, P.E.
Babu Varghese, P.E., S.I.
Vivian Boza, Public Member
Elizabeth Ferguson, Public Member



Attorney General's Office:

Lawrence Harris, Assistant Attorney General, Counsel to the Board

Staff Members Present:

Zana Raybon, Executive Director
John J. Rimes, III, Chief Prosecuting Attorney
Rebecca Sammons, Assistant Executive Director

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

Charlie Geer, P.E., FES, ACEC
Andrew Lovenstein, P.E., FSEA
Art Nordlinger, P.E., IEEE
Donna Friis, P.E.
Andy Schrader, P.E.

D. FBPE Mission and Scope

- #1. FBPE's Mission: To protect the health and safety of the public by properly regulating the practice of engineering within the State of Florida.
- #2. FBPE's Scope: To meet its statutory obligation and exercise its legislative authority by reviewing and approving engineering applications; managing, updating and enforcing the rules that govern the practice of engineering and to guard against the unlicensed practice of engineering within the State of Florida.

E. Approval of the Agenda

Upon motion by Mr. Fiorillo, seconded by Mr. Hahn, to approve the agenda, the motion passed.

F. Approval of Consent Agenda

(Items denoted with an asterisk are included in the Consent Agenda*)

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, to approve the consent agenda, the motion passed.

- #1. Minutes from the December 7, 2017 FBPE Board Meeting*

Approved under consent agenda.

- #2. Minutes from January 10, 2018 FBPE Probable Cause Panel Meeting*

Approved under consent agenda.

- #3. Minutes from January 19, 2018 FBPE Ratification Conference Call*

Approved under consent agenda.

- #5. Application for Retired Status*

Approved under consent agenda.

G. Committee Reports

- #1. Probable Cause Panel **(Next Meeting: March 14, 2018 at 8:30am)**

(Kevin Fleming, P.E., Chair; William Bracken, P.E., S.I.; Bob Matthews, P.E.)
(Alternate Current Board Member: Kenneth Todd, P.E.; Alternate Past Board Member: Richard Wohlfarth, P.E.)

Mr. Fleming discussed the issue of a large number CE Cases that will be forthcoming before the panel and how the board would like to deal with these cases.

Mr. Rimes stated that staff has about 60 CE audit cases ready right now and will have another 20 for March PCP Meeting. Mr. Rimes stated that there were approximately 100 audit cases and a large amount of these cases deal with out of state engineers. Mr. Rimes stated that a board appearance has been a standard practice for an administrative complaint, so the board needs to think about this and give advice to the probable cause panel members.

Discussion followed on how to handle these cases and suggestions for the panel to consider in making a penalty recommendation for various categories of violations within the established penalty guidelines contained in Rule 19.004.

#2. Applications Review – Experience Committee **(Next Meeting: March 14, 2018 at 1pm via conference call)**

(Warren Hahn, P.E., Chair; William Bracken, P.E.; Anthony Fiorillo, P.E.; Kevin Fleming, P.E.; PJ Shah, P.E.; Kenneth Todd, P.E.; Babu Varghese, P.E.)

(a) Committee Chair's Report.

No Report.

#3. Applications Review – Education Committee **(Next Meeting: March 14, 2018 at 3pm via conference call)**

(Michelle Roddenberry, Ph.D., P.E., Chair; Anthony Fiorillo, P.E.; Kenneth Todd, P.E.) (Alternate Members: Vivian Boza, Public Member; Elizabeth Ferguson, Public Member)

(a) Committee Chair's Report.

No Report.

#4. Rules Committee **(Next Meeting: March 13, 2018 at 1pm via conference call)**

(William Bracken, P.E., S.I., Chair; Kevin Fleming, P.E.; Warren Hahn, P.E.; Elizabeth Ferguson, Public Member)

(a) Committee Chair's Report.

No Report.

#5. Joint Engineer/Architect Task Force Committee

(William Bracken, P.E., S.I., Chair; Warren Hahn, P.E.; Kevin Fleming, P.E.)

(a) Committee Chair's Report.

No Report.

#6. Structural Rules Committee

(Kevin Fleming, P.E., Chair; Anthony Fiorillo, P.E., S.I.; Pankaj (PJ) Shah, P.E.; Babu Varghese, P.E., S.I.)

(Public Advisors to the committee: Doug Barkley, P.E., FES Representative; Ron Milmed, FSEA Representative; John Pepper, P.E., S.I.)

(a) Committee Chair's Report.

Mr. Fleming mentioned that the committee held a conference call on January 8 and discussed the SI application process and talked about a worksheet that might possibly be used in the future. He also discussed the ASTM329 handout and how it would impact our rules. Discussion followed. Mr. Fleming stated that the committee will not recommend action on this handout at this time.

#7. CE Rules Committee **(Next Meeting: TBD)**

(Kenneth Todd, P.E., Chair; William Bracken, P.E., S.I.; Babu Varghese, P.E., S.I.)

(Public Advisors to the committee: William Dunn; Art Nordlinger, P.E.; Fred Bloetscher; Patrick Ferland; Gerry Ward; Al Garza; Rick Barber; Brett Cunningham)

(a) Committee Chair's Report

Mr. Todd stated that the committee proposed rule changes that have been adopted. Mr. Harris discussed the rule changes relating with this committee.

#8. Certificate of Authorization Committee **(Next Meeting: February 6, 2018 at 2pm via conference call)**

(Kenneth Todd, P.E., Chair; William Bracken, P.E., S.I.; PJ Shah, P.E.; Elizabeth Ferguson, Public Member)

(Public Advisors to the committee: Andrew Lovenstein, P.E.; Charlie Geer, P.E.)

(a) Committee Chair's Report

Mr. Todd stated that the committee had met and will be meeting again.

H. NCEES

(Kenneth Todd, P.E., FBPE Liaison)

I. Advisory Attorney's Report

#1. Rules Report

Mr. Harris presented the Rules Report for the Board's review and consideration.

#2. Public Hearing on Rule 61G15-20.0015

Mr. Harris explained why the rule is on the agenda and the proposed rule language. Discussion followed.

Upon motion by Mr. Bracken, seconded by Mr. Shah, to open Rule 61G15-20.0015 for development and propose rule language as shown in the meeting materials, the motion passed.

Mr. Harris asked if the proposed rule language will have an adverse impact on small business or if the proposed rule amendments would be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within one (1) year after the implementation of the rule or if the proposed rule language will have a net increase of regulatory costs in excess of one (1) million dollars within five (5) years after the implementation of the final part of the rule or if a violation of any part of the rule could be resolved through issuance of a Notice of Noncompliance.

Upon motion by Mr. Bracken, seconded by Mr. Fiorillo, that the proposed rule amendments will have no adverse impact on small business and will not increase regulatory costs or have a net increase of regulatory costs in excess of \$200,000 in one (1) year or one (1) million dollars within five (5) years after the implementation of final part of the rule and a violation of any part of the rule cannot be resolved through issuance of a notice of noncompliance does not apply to this rule, the motion passed.

J. Executive Director's Report

#1. 2018 FBPE/FEMC Meeting Calendar

Provided for informational purposes.

#2. SB1708

Provided for informational purposes.

K. Chief Prosecutor's Report

#1. 300 day report

Provided for informational purposes.

#2. Profile of legal cases by year

(a) Cases open for 1 year plus

Provided for informational purposes.

(b) Total open cases by year

Provided for informational purposes.

#3. Non-Compliance Report

Provided for informational purposes.

#4. Open case report

Provided for informational purposes.

#5. Discussion on how to proceed with prosecution of cases against licensees who failed to comply with the CE Audit

This item was discussed under the committee report for Probable Cause Panel.

L. Engineering Association and Society Reports

#1. FSEA

Mr. Lovenstein mentioned that they are monitoring HB299 and thanked all the board members for their service.

#2. FES

Mr. Geer described the bills that FES is tracking and possible modifications for chapter 471. Mr. Geer stated that these modifications will not take place this year.

#3. IEEE

Mr. Nordlinger thanked the board members for their service.

M. Chair's Report

#1. Appoint Committees

Mr. Todd made the following changes to the committees:

- Appointed Mr. Shah to PCP starting in May
- Appointed Mr. Bracken as chair of PCP starting in May
- Appointed Ms. Ferguson as chair of Education committee when/if Dr. Roddenberry is replaced
- Appointed Mr. Shah to the Rules Committee

N. Action Items from Previous Board Meetings

#1. Email from Mr. John Porter, P.E. – RE: Point-of-Service for Fire Protection

O. Correspondence to the Board

#1. Email from Mr. Moulder, PE – Re: Smoke Control Special Inspector

Mr. Todd and Mr. Hahn both discussed the email. Discussion followed.

Mr. Rimes will draft a response for Mr. Todd's signature.

#2. Email from Mr. Reinke, P.E. – Re: Objections to Design Professional Digital Signature Affidavits by local jurisdictions

Mr. Rimes discussed the email. Discussion followed.

Mr. Rimes will draft a response for Mr. Todd's signature.

#3. Email from FBPE Board Member Bracken, P.E. – Re: 3rd Party Authorization

Mr. Bracken discussed the email. Mr. Harris stated that he would look into this to see if we can do this. This item was referred to the Rules Committee.

The following items were discussed as new items under board correspondence as additional items.

#4. Actions from Previous Board Meetings


Ms. Raybon discussed the email from Mr. McConaughy. Discussion followed. Mr. Bracken stated that he will work with staff and Mr. Harris on a response to this email.

Mr. Rimes mentioned that the attorney for the Mr. Brady has asked to continue the case until the April Board meeting. The Board agreed.

Mr. Harris stated that he has reviewed the statutes and rules in regards to doing an incentive for renewal. He believes this can be done and asked that this issue be referred to the Rules Committee.

Mr. Todd mentioned that he had discussion with a previous board member who held the industrial seat and this board member felt that the new language dealing with discipline required to be on the Board that industrial engineers are excluded. Discussion followed.

Mr. Hahn talked about the email from Mr. Tumin in reference to fire protection rule language and stated that he need to discuss the email with Mr. Tumin and get back with the Board on this issue.



Part II
Informal Hearing Agenda
(Thursday, February 1, 2018)

Review of FBPE Mission and Scope:

FBPE's Mission: To protect the health and safety of the public by properly regulating the practice of engineering within the State of Florida.

FBPE's Scope: To meet its statutory obligation and exercise its legislative authority by reviewing and approving engineering applications; managing, updating and enforcing the rules that govern the practice of engineering and to guard against the unlicensed practice of engineering within the State of Florida.

P. Ratification of Actions from Application Review, January 31, 2018

Ms. Sammons noted that the reason for denial of #121-Freidin should be insufficient engineering experience.

Upon motion by Mr. Hahn, seconded by Mr. Shah, to approve the ratification list as amended, the motion passed.

Q. Informal Hearing on Denial of Application for Licensure by Endorsement

#1. Arkadiusz Czerw

Mr. Czerw was present and sworn in prior to addressing the Board. Mr. Harris explained the basis of the denial of Mr. Czerw's application. Mr. Czerw holds a BS in Mechanical Engineering Technology from New Jersey Institute of Technology. The denial of the application is based on education. Mr. Czerw has a technology degree. Mr. Czerw returned his Election of Rights with a request for an Informal Hearing.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, that Mr. Czerw was properly served with the notice of intent to deny and he requested a section 120.57(2), F.S. hearing not involving disputed issues of material facts, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, to accept into evidence the complete application file contained in the meeting materials including any supplemental materials provided by Mr. Czerw, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Shah, that the Board adopt the factual allegations in the notice of intent to deny as the Board's findings of fact, the motion passed.

Mr. Czerw addressed the Board. Discussion followed.

Mr. Harris discussed the law and Mr. Czerw's options for proceeding.

Upon motion Dr. Roddenberry, seconded by Mr. Hahn, to continue the informal hearing until the April 2018 Board meeting, the motion passed.

R. Board Appearance on Application for Licensure by Endorsement

#1. Ronald Troyer

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

Mr. Harris explained the reason for the appearance. Mr. Troyer holds BA in Math and Natural Science from Goshen College and a BS in Mechanical Engineering from Tri-State University. At the November 7, 2017 Application Review, the Application Committee of the Florida Board of Professional Engineers requested that Mr. Troyer appear to explain why he answered no to the criminal conviction question on the FBPE application but yes on NCEES records.

Mr. Troyer addressed the Board.

Discussion followed.

Upon by Mr. Hahn, seconded by Mr. Shah, to accept the testimony presented by Mr. Troyer, approve the application of Mr. Troyer, and require a new corrected application

be submitted by Mr. Troyer, the motion passed. The following board members were opposed to the motion: Mr. Bracken, Mr. Fleming, Ms. Ferguson and Mr. Todd.

#2. Leland Chapman

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

Mr. Harris explained the reason for the appearance. Mr. Chapman holds BS and MS in Mechanical Engineering from the University of Arkansas. At the November 7, 2017 Application Review, the Application Committee of the Florida Board of Professional Engineers requested that Mr. Chapman appear to explain his past disciplinary action that was not indicated on his FBPE application but was on his NCEES records.

Mr. Chapman addressed the Board.

Discussion followed.

Upon motion by Dr. Roddenberry, seconded by Mr. Varghese, to approve the application of Mr. Chapman with the stipulation that a statement is obtained from the person that filled out the application.

Discussion followed.

Dr. Roddenberry withdrew her motion.

The informal hearing is continued until the June board meeting to provide additional materials, including an affidavit from the engineer who filled out Mr. Chapman's application and documentation regarding the consent order.

#3. Thomas Groves

Mr. Groves was present with counsel, Mr. Thompson.

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

Mr. Harris explained the reason for the appearance. Mr. Groves holds BS in Engineering from the University of Arkansas. Southern Indiana. At the November 7, 2017 Application Review, the Application Committee of the Florida Board of Professional Engineers requested that Mr. Groves appear to explain why he answered no to the criminal conviction question on the FBPE application but yes on NCEES records.

Mr. Groves addressed the Board. Discussion followed.

Upon motion by Mr. Bracken, seconded by Ms. Ferguson, to deny the application of Mr. Groves, the motion passed. Dr. Roddenberry was opposed.

Upon motion by Mr. Hahn, seconded by Mr. Fleming, to allow the application to withdraw within five (5) days before the final order is entered, the motion passed

Mr. Groves withdrew his application.

S. Board Appearance on Application for Principles and Practice Examination

#1. Pavli Vasho

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

Mr. Harris explained the reason for the board appearance. Mr. Vasho's holds a BS in Structural Engineering from Polytechnic University of Tirana. At the January 10, 2018 Application Review, the Application Committee of the Florida Board of Professional Engineers requested asked that Mr. Vasho appear to explain his experience.

Mr. Vasho addressed the Board.

Discussion followed.

Upon motion by Mr. Fleming, seconded by Ms. Ferguson, to conditionally approve the application and require Mr. Vasho to submit work verification for March 2015 to current time documenting 48 months of experience. Mr. Vasho is approved to sit for the April examination, and verification of experience shall be submitted within 90 days. If verification of experience is not submitted within the time period, or if he fails to meet the established experience requirements, then the exam score will be vacated and will not be accepted for licensure in Florida. The applicant stated he will sign a letter agreeing to these terms. The motion passed.

T. Hearing on Petition for Waiver and Variance of Rule 61G15-20.007

#1. Sangyul Cho

Dr. Cho was present and sworn in prior to addressing the Board.

Mr. Harris explained the facts of the case.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, that Dr. Cho was properly served with the notice of intent to deny and he requested a section 120.57(2), F.S. hearing not involving disputed issues of material facts, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, to accept into evidence the complete application file contained in the meeting materials including any supplemental materials provided by Dr. Cho, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, that the Board adopt the factual allegations in the notice of intent to deny as the Board's findings of fact, the motion passed.

Discussion followed.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, to approve the Petition for Variance, finding Dr. Cho achieved the requirements by other means and that the principles of fairness would be violated, the motion passed. By the granting of the Petition, Dr. Cho's application for licensure was approved.

U. Hearing on Petition for Waiver and Variance of Rule 61G15-20.002

#1. Marc Rader

Mr. Harris explained the facts of the application and the petition.

Upon motion by Mr. Hahn, seconded by Mr. Fiorillo, to approve the petition and the application for licensure by Mr. Rader, the motion passed.



Disciplinary Hearings (Thursday, February 1, 2018)

V. SETTLEMENT STIPULATION

#1. John P. Stoppi P.E.
P.E. Number: 78807
FEMC Case Number: 2017020571
Probable Cause Panel Date: September 19, 2017
Probable Cause Panel: Fleming, Roddenberry, & Matthews

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

Mr. Rimes outlined the facts of the case. The charges relate to a violation of §471.033(1)(a), FS: Violating any provision of §455.227(1), §471.025, or §471.031, or any other provision of this chapter or rule of the board or department: Rule 61G15-29.001(3); § 471.033 (1)(j) and Rule 61G15-19.001(6)(b); Affixing or permitting to be affixed his or her seal, name or digital signature to any final to any final drawings,

specifications, plans reports or documents that were not prepared by him or her or under his or her responsible supervision, direction, or control.

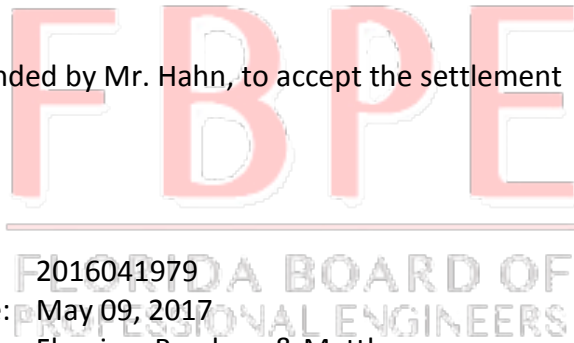
The Probable Cause Panel recommendation was Administrative Complaint: Administrative Fine of \$3,000.00 (\$1,000.00 per count); Administrative Costs of \$1,386.65; Reprimand; Appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future; Successful completion of the Board Approved Basic Engineering Professionalism and Ethics course; Successful completion of the Board's Study Guide.

The Settlement Stipulation is Administrative Complaint: Administrative Fine of \$1,000.00; Administrative Costs of \$1,386.65; Reprimand; Appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future; Successful completion of the Board Approved Basic Engineering Professionalism and Ethics course; Successful completion of the Board's Study Guide.

Mr. Stoppi addressed the Board.

Upon motion by Mr. Fiorillo, seconded by Mr. Hahn, to accept the settlement stipulation, the motion passed.

#2 Robert J. Brady P.E.
P.E. Number: 26153
FEMC Case Number: 2016041979
Probable Cause Panel Date: May 09, 2017
Probable Cause Panel: Fleming, Bracken, & Matthews
Represented by: David P. Rankin, P.A.



The case was continued until the April 2018 FBPE Board meeting at the request of Mr. Brady.

W. DEFAULT

#3. Baseline Engineering.
C.A. Number: UNLICENSED
FEMC Case Number: 2017009244
Probable Cause Panel Date: September 19, 2017
Probable Cause Panel: Fleming, Roddenberry, & Matthews

Mr. Rimes outlined the facts of the case. The charges relate to a violation of §471.023(1), FS: Offering engineering services through a corporation without a Certificate of Authorization.

The Probable Cause Panel recommendation was Administrative Complaint; Reprimand, Appearance before the Board to include the qualifying engineer; Administrative Fine of \$5,000.00; Administrative Costs of \$191.10.

Upon motion by Mr. Hahn, seconded by Mr. Bracken, that the respondent was properly served with the complaint and failed to file an election of rights required by law within the required time, the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Bracken, that by failing to respond in writing as required by law the respondent has waived his right to request a hearing and to grant the motion that the respondent has forfeited his right to select an administrative hearing under section 120.569 and 120.57(1) and convene a hearing under section 120.57(2), F.S., the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Bracken, that the Board adopt the findings of facts contained within the complete file including the administrative complaint as the board's findings of facts and to accept the conclusions of law contained in the allegations of law contained in the administrative complaint as the Board's conclusions of law, the motion passed.

Upon motion by Mr. Fiorillo, seconded by Mr. Bracken, that the alleged violations in the administrative complaint do violate the practice act, the motion passed.

Upon motion by Mr. Bracken, seconded by Mr. Hahn, to accept the PCP recommendation, suspend the CA and have the corporate representative and the qualifier appear before the board, the motion passed.

#4 Harris Civil Engineering, LLC.
C.A. Number: UNLICENSED
FEMC Case Number: 2017002512
Probable Cause Panel Date: November 07, 2017
Probable Cause Panel: Fleming, Bracken, & Matthews

Mr. Rimes outlined the facts of the case. The charges relate to a violation of § 471.023, FS: Offering Engineering Services without a Certificate of Authorization, §471.031(1)(b)1., FS: Utilizing the protected title of Civil Engineer.

The Probable Cause Panel recommendation was Administrative Complaint; Administrative Costs of \$105.30.

Upon motion by Mr. Hahn, seconded by Ms. Boza, that the respondent was properly served with the complaint and failed to file an election of rights required by law within the required time, the motion passed.

Upon motion by Mr. Hahn, seconded by Ms. Boza, that by failing to respond in writing as required by law the respondent has waived his right to request a hearing and to grant the motion that the respondent has forfeited his right to select an administrative hearing under section 120.569 and 120.57(1) and convene a hearing under section 120.57(2), F.S., the motion passed.

Upon motion by Mr. Hahn, seconded by Ms. Boza, that the Board adopt the findings of facts contained within the complete file including the administrative complaint as the board's findings of facts and to accept the conclusions of law contained in the allegations of law contained in the administrative complaint as the Board's conclusions of law, the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Shah, to accept the PCP recommendation as presented in the meeting materials, the motion passed.

- X. Request from Mr. Messulam to retire license (FEMC Case No: 2014017182)

Mr. Rimes stated that Mr. Messulam has requested to retire his license in lieu of further disciplinary action. Discussion followed.

The Board will allow him to retire but he can never reapply again.

- Y. Old Business

- Z. New Business

AA. Public Forum

BB. Adjourn

Next Board Meeting: April 4-5, 2018
Hyatt Regency Orlando Airport
9300 Jeff Fuqua Blvd.
Orlando, FL 32827