

**Minutes for
The Florida Board of Professional Engineers
April 13, 2016 beginning at 1:00 p.m. or soon thereafter and
April 14, 2016 beginning at 8:30 a.m., or soon thereafter
Crowne Plaza Orlando Universal
Orlando, Florida**

Part I – Wednesday, April 13, 2016

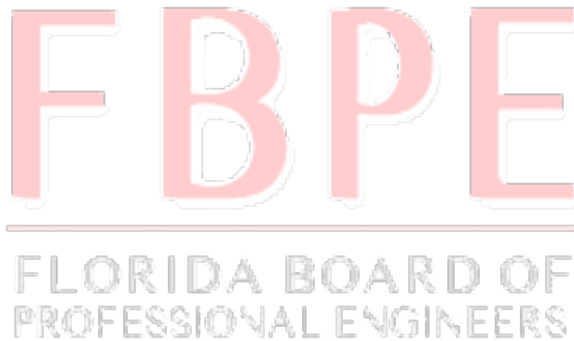
A. Call to Order, Invocation, and Pledge of Allegiance to the Flag

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

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

Board Members Present:

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



Board Members Absent:

Roland Dove, P.E.

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

Upon motion by Mr. Fiorillo, seconded Mr. Hahn, the absence of Mr. Dove was excused.
The motion passed.

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

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. Fleming, the agenda was approved. 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. Todd, the consent agenda was approved. The motion passed.

#1. Minutes from the February 10-11, 2016 FBPE Board Meeting*

Approved under consent agenda.

#2. Minutes from March 18, 2016 FBPE Ratification Conference Call*

Approved under consent agenda.



G. Committee Reports

#1. Probable Cause Panel (**Next Meeting: May 10, 2016 at 1pm**)

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

(a) PCP Memo from March 8, 2016 Meeting*

Approved under consent agenda.

#2. Applications Review – Experience Committee (**Next Meeting: May 10, 2016 at 8:30am**)

(Warren Hahn, P.E., Chair; William Bracken, P.E.; Roland Dove, P.E.; Anthony Fiorillo, P.E.; Kevin Fleming, P.E.; John Pepper, P.E.; Kenneth Todd, P.E.; Babu Varghese, P.E.)

- (a) Committee Chair's Report.
No Report.

#3. Applications Review – Education Committee **(Next Meeting: May 10, 2016 at 8:30am)**
(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: June 8, 2016 at 10am and July 20, 2016 at 8:30am)**
(William Bracken, P.E., S.I., Chair; Roland Dove, P.E.; Warren Hahn, P.E.; Elizabeth Ferguson, Public Member)

- (a) Committee Chair's Report.
No Report.

(b) Public Hearing on Amendments to Rule 61G15-20.0010 – Application for Licensure by Examination

(i) Update to the PE Application

Mr. Harris discussed Rule 61G15-20.0010 and concerns from JAPC about the application regarding the following:

- Date of birth
- Email address being required
- Release of liability

Mr. Harris also discussed the FBPE PE Application – Form 002 and explained how some concerns have been handled. Mr. Harris stated that he believes the date of birth and email being required has been resolved in the applications being presented at this time.

Discussion followed regarding the concerns from JAPC about the date of birth and email address.

Discussion followed on the release of liability concerns.

(ii) Update the Fundamentals Application

Mr. Harris stated that the issues with the PE Application in regards to the date of birth and the email apply to the Fundamentals Application.

Upon motion by Mr. Todd, seconded by Mr. Fiorillo, to open for development and approve the rule amendments to Rule 61G15-20.0010 as presented, the motion passed.

Mr. Harris asked if the proposed rule amendments will have an adverse impact on small business or will the proposed rule amendments 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.

Upon motion by Mr. Fiorillo, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business and will not increase regulatory costs, the motion passed.

(c) Public Hearing on Rule 61G15-20.0015 – Application for Licensure by Endorsement

(i) Update to the PE Endorsement Application

Mr. Harris discussed the proposed PE Endorsement Application and the FE Endorsement Application.

Mr. Bracken noted that page numbering needs to be checked on the applications and the wording needs to be changed on the verification form.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to open for development and approve the rule amendments to Rule 61G15-20.0015 with the changes noted, the motion passed.

Mr. Harris asked if the proposed rule amendments will have an adverse impact on small business or will the proposed rule amendments 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.

Upon motion by Mr. Fiorillo, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business and will not increase regulatory costs, the motion passed.

(ii) Update the FE Endorsement Application

This item was handled under the previous item.

- (d) Public Hearing on Rule 61G15-22 – License Renewal, Continuing Education –
i. Email from Mr. Bloetscher, Professor at FAU – RE: FAU offering L/R and Ethics courses as an Exempt CE Provider

Mr. Harris discussed the issue of offering laws and rules courses and ethics courses by an exempt provider. Mr. Harris stated that the issue now is that all courses should be approved but does an exempt provider need to be approved to be a CE provider.

Discussion followed.

Mr. Bracken stated that staff should be charging for laws and rules and ethics courses for all continuing education providers.

Mr. Bracken asked this issue be moved to the next Rules Committee meeting for review along with a review of the entire chapter dealing with continuing education providers and courses.

- (e) Public Hearing on Rule 61G15-23 – Seals

Mr. Bracken discussed the draft rule that was provided at the meeting and gave a brief background on rule revision.

Discussion followed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, that Rule 61G15-23 be opened for development, the motion passed.

Mr. Rimes discussed the cross-reference to definitions of a certificate and if an individual can create his own certificate.

Discussion followed.

Mr. Bracken requested this item be added to the next Rules Committee meeting agenda for review and/or action.

- (f) Discussion on SERC for Rule 61G15-24.001 - Fees

Mr. Harris discussed the SERC for the continuing education courses.

Discussion followed.

Mr. Bracken requested this item be moved to the next Rules Committee agenda for discussion and/or action.

#5. Joint Engineer/Architect Task Force Committee
(William Bracken, P.E., S.I., Chair; Warren Hahn, P.E.; John Pepper, P.E., S.I.)

(a) Committee Chair's Report.

No Report.

#6. Test Equivalency Review Special Committee
(Michelle Roddenberry, Ph.D., P.E., Chair; John Pepper, P.E., S.I.; Babu Varghese, P.E., S.I.)

(a) Committee Chair's Report.

No report.

H. NCEES
(William Bracken, P.E., FBPE Liaison)

#1. Report on NCEES Southern Zone Meeting

Provided for informational purposes.

I. Advisory Attorney's Report

#1. Rules Report

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

J. Executive Director's Report

#1. Application for Retired Status*

Approved under consent agenda

#2. 2016 FBPE/FEMC Meeting Calendar

Provided for informational purposes.

#3. Question from fellow MBA about Teaching Experience

Ms. Raybon discussed the issue of allowing teaching experience to qualify for the PE exam and the language in the current rule.

Discussion followed.

The board decided to leave the rule as it.

#4. Update on Renewal

Ms. Raybon stated that FEMC is in process of planning for renewal by setting up meetings with DBPR and we are changing our phone system before the end of the fiscal year. The new phone system will track the number of calls (incoming and outgoing), will record the calls, and will show how quickly they are being answered. The new system is a VOIP system. Mr. Todd asked that a mass email be sent out notifying all licensees about the changes to the continuing education requirements.

#5. Appoint Two Funded Delegates and First Time Attendees to the 2016 NCEES Annual Meeting in Indianapolis, IN (August 24-27)

Ms. Raybon stated that we are entitled to two funded delegates and two first time funded attendees. The two first time funded attendees will be Mr. Fleming and Mr. Varghese and the two funded delegates will be Dr. Roddenberry and Mr. Todd. Other attendees will be Mr. Bracken, Mr. Fiorillo, Ms. Raybon and Ms. Sammons.

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

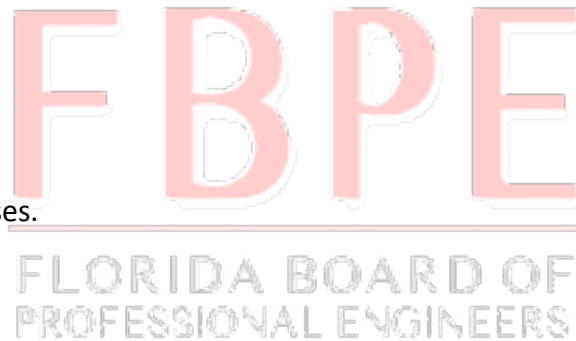
Provided for informational purposes.

L. Engineering Association and Society Reports

#1. FSEA

Mr. Milmed addressed the board about the current rules for threshold building inspection and whether or not they apply to the structural repair of existing buildings.

Discussion followed.



#2. FES

M. Chair's Report

N. Action Items from Previous Board Meetings

#1. Email from Mr. Curtis Falany – Re: Chair’s Corner Article – Rule 61G15-23

#2. Email from Mr. Scott Hampton – Re: Article on Commissioning Documents

#3. Email from Mr. John Davis – Re: FBPE Continuing Education – Mr. Harris to report on this under Old Business

O. Correspondence to the Board

#1. Email from Mr. Paul Bohres, PE – Re: Jurisdiction Requirements

Mr. Rimes discussed this issue. Mr. Bracken will work with Mr. Rimes on a response.

#2. Letter from Ms. Maria Molina, PE – Re: Clarification on Rule 61G15-18.011(4)

Ms. Molina addressed the board about project certifications.

Discussion followed.

#3. Email from Mr. Paul Pavlov – Re: Digitally signed and sealed documents

Mr. Bracken will work with Mr. Rimes on a response.

#4. Letter from Dr. Jeffry Buckholz, PE – Traffic Engineering Committee

Dr. Buckholz addressed the board on the dissolution of the Traffic Engineering Committee.

Discussion followed.

#5. Email from Mr. Steven Bassett – Re: Continuing Education Credit

Mr. Bracken discussed the email and provided the following answers: yes to question #1 about his service on the FBC qualifying for the building code course; for question #2 he needs to refer to the rule; and for question #3 – this does not count as meeting the L/R requirement.

#6. Letter from Jodi Doyle – Re: Clarification on Rule 61G15-23.004

Mr. Bracken went over the letter. Mr. Bracken and Mr. Rimes will draft a response.

#7. Email from Mr. William Strange – Re: Rule Concerning SHA1 (Rule 61G15-23.005)

Mr. Bracken went over the letter. Mr. Bracken and Mr. Rimes will draft a response.

Part II
Informal Hearing Agenda
(Thursday, April 14, 2016)

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.

Description of Educational Committee Process by Michelle Roddenberry, Ph.D., P.E.

P. Ratification of Actions from Application Review, April 13, 2016

Upon motion by Mr. Hahn, seconded by Mr. Todd, to ratify the actions of the application review committees, the motion passed.

Q. Informal Hearing on Denial of Application for Fundamentals Examination

#1. Mark Pelsh

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

Mr. Harris outlined the basis of the denial of Mr. Pelsh's application. Mr. Pelsh holds a BS in Electrical Engineering Technology from Pennsylvania State University. Mr. Pelsh returned his Election of Rights with a request for an Informal Hearing and the reason for denial of the application is no engineering degree was earned. At the March 8, 2016 Application Review, the Application Committee of the Florida Board of Professional Engineers recommended the denial of Mr. Pelsh's application for the fundamentals examination per statute as technology degrees are not accepted per statute.

Upon motion by Mr. Todd, seconded by Dr. Roddenberry, that Mr. Pelsh was properly served with the notice of intent to deny and he requested a hearing not involving disputed issues of material facts, the motion passed.

Upon motion by Mr. Todd, seconded by Dr. Roddenberry, that there are no disputed issues of material fact and to convene a 120.57(2) hearing, the motion passed.

Upon motion by Mr. Todd, seconded by Dr. Roddenberry, that the board adopt the factual allegations in the notice of intent to deny and the application file as the facts of this case, the motion passed.

Mr. Pelsh addressed the board.

Discussion followed.

Mr. Pelsh asked to have his application withdrawn.

R. Informal Hearing on Denial of Application for Special Inspector License

#1. Henry Hillman

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

Mr. Harris outlined the basis of the denial of Mr. Hillman's application. At the December 3, 2015 Application Review, Mr. Hillman's application was denied based on the fact that not all the experience was within seven (7) years and not all the work described appeared to be structural. Mr. Hillman supplemented his application but the review committee continues to recommend denial.

Upon motion by Mr. Todd, seconded by Mr. Fiorillo, that Mr. Hillman was properly served with the notice of intent to deny and he requested a hearing not involving disputed issues of material facts, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Fiorillo, that there are no disputed issues of material fact and to convene a 120.57(2) hearing not involving disputed issues of material facts, the motion passed.

Mr. Hillman addressed the board.

Discussion followed.

Mr. Hillman asked that his application be continued so that he may file a petition for waiver and variance.

S. Hearing on Petition for Declaratory Statement

#1. Williams Law Firm

Ms. Rivera explained the issue and the reason they are requesting a declaratory statement.

Discussion followed.

Mr. Harris stated the board should deny the petition because the petitioner does not have standing and they are seeking to govern the conduct of another person.

Discussion followed.

Ms. Rivera withdrew the petition.

Part III Disciplinary Hearings (Thursday, April 14, 2016)

Description of Disciplinary Process by William Bracken, P.E.

T. SETTLEMENT STIPULATION

#1. Charles Alexander, P.E.
P.E. Number: 76422
FEMC Case Number: 2015021498
Probable Cause Panel Date: November 17, 2015
Probable Cause Panel: Fiorillo, Matthews & Pepper

Mr. Alexander 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 Section 471.033(1) (c), Florida Statutes: Having a license to practice engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country, for any act that would constitute a violation of this chapter or chapter 455.

Mr. Alexander waived his right to have his attorney present today.

Mr. Alexander addressed the board.

Discussion followed.

The Probable Cause Panel Recommendation was Administrative Complaint; Reprimand, Suspension of Professional Engineer License for one (1) year from the date of filing the Final Order with the Department of Business and Professional Regulation ("Agency")

Clerk; Administrative Fine of \$5,000.00; Administrative Costs of \$255.45; Successful Completion of the Advanced Engineering Professionalism and Ethics course which has been approved by the Florida Board of Professional Engineers (“Board”); Successful completion of the Board-approved Study Guide; Appearance before the Board to explain how this situation occurred and what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future.

The Settlement Stipulation is the same as the Probable Cause Recommendation.

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

#2. William Pino, P.E.
P.E. Number: 32026
FEMC Case Number: 2014031178
Probable Cause Panel Date: January 12, 2016
Probable Cause Panel: Fiorillo, Matthews & Pepper
Represented by: Mr. Edwin A. Bayó, Esq.
Grossman, Furlow & Bayó, LLC

Mr. Pino was present along with counsel, Mr. Bayó. Mr. Pino was sworn in prior to addressing the board.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(d), Florida Statutes: Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of engineering or the ability to practice engineering; Violating Chapter 455; Section 455.227(1)(t), Florida Statutes: Failing to report in writing to the board or, if there is no board, to the department within 30 days if convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction

Mr. Bayó addressed the board.

Mr. Pino addressed the board.

The Probable Cause Panel Recommendation was Administrative Complaint; Reprimand, Administrative Fine of \$2,000 (\$1,000.00 per Count in Administrative Complaint); Administrative Costs of \$226.20; Suspension of license until Respondent appears before the Florida Board of Professional Engineers (“Board”) and explains why Respondent believes the suspension should be lifted and to impose any other actions they deem fit. Successful Completion of an Engineering Professionalism and Ethics course which has been approved by the Florida Board of Professional Engineers (“Board”); Successful completion of the Board-approved Study Guide

The Settlement Stipulation is the same as the Probable Cause Panel Recommendation.

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

#3. National Cost, Inc.
C.A. Number:
FEMC Case Number: 2014039867
Probable Cause Panel Date: November 17, 2015
Probable Cause Panel: Fiorillo, Matthews & Pepper
Represented by: Michael J. Kennedy, Esq.
Ciklin Lubitz & O'Connell

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

Mr. Ferry waived his right to have his attorney present today.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.023, Florida Statutes: Offering Engineering Services without a Certificate of Authorization.

Mr. Ferry addressed the board.

The Probable Cause Panel Recommendation was Administrative Complaint; Administrative Fine of \$5,000.00; Administrative Costs of \$475.65; Appearance before the Board to explain how this situation occurred and what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future.

The Settlement Stipulation is Administrative Complaint; Administrative Costs of \$475.65; Appearance before the Board to explain how this situation occurred and what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future.

Mr. Ferry addressed the board.

Discussion followed.

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

U. RECOMMENDED ORDER & MOTION TO TAX COSTS

#4. John D. Holt, P.E.

P.E. Number: 15252
FEMC Case Number: 2014050099
Probable Cause Panel Date: September 15, 2015
Probable Cause Panel: Fiorillo, Matthews & Pepper
Represented by: Barry W. Taylor, Esquire
Taylor & Taylor Law

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(g), Florida Statutes, & Rule 61G15-19.001(4), Fla. Admin. Code, by engaging in negligence in the practice of engineering.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to accept recommended order from the administrative law judge and adopt the recommended findings of fact as the board's findings of fact and adopt the recommended conclusions of law as the board's conclusions of law and impose the recommended discipline, the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Fleming, to impose the following additional penalty: prior to seeking reinstatement that Respondent complete the study guide; the advanced professionalism and ethics course and then appear before the board so the board can consider the terms for his probation, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to assess fines and costs as presented, the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to allow the respondent one year to pay the fine and costs from the date of entry of the final order, the motion passed.

V. MOTION FOR DEFAULT

#5 Rodrigo Cadavid
P.E. Number: N/A
FEMC Case Number: 2015003839
Probable Cause Panel Date: November 17, 2016
Probable Cause Panel: Fiorillo, Matthews & Pepper

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.031(1)(a), Florida Statutes: A person may not practice engineering unless the person is licensed or exempt from licensure under this chapter. Section 433.001(a), Florida Statutes: Violating any provision of s. 455.227(1), s. 471.025, or s. 471.031, or any other provision of this chapter or rule of the board or department.

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

Upon motion by Mr. Todd, seconded by Mr. Hahn, 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 an administrative hearing under section 120.569 and 120.57(1) and convene a hearing under section 120.57(2), the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, that the board adopt the findings of facts contained within the complete file including the administrative complaint as the board's findings of facts, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to accept the conclusions of law contained in the allegations of law contained in the administrative complaint as the board's conclusions of law and find the facts constitute a violation of law, the motion passed.

Upon motion by Mr. Todd, seconded by Mr. Hahn, to impose a fine of \$5,000 and costs of \$267.55, the motion passed.

W. REQUEST/MOTION TO AMEND FINAL ORDER

#6. JOSEPH C. KOSINSKI, P.E.
P.E. Number: 52288
FEMC Case Number: 2014026742
Probable Cause Panel Date: January 13, 2015
Probable Cause Panel: Roddenberry, Matthews & Pepper
Represented by: Mr. Joseph Stewart

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

Mr. Kosinski waived his right to have his attorney present today.

Mr. Harris stated that a final order is in place that requires certain items and Mr. Kosinski is requesting that the final order be amended because he will not be doing those items.

On October 14, 2015, this office received correspondence from Mr. Joseph C. Kosinski, P.E., stating that he has "... limited [his] practice to structural engineering and has not designed any mechanical, electrical; or plumbing systems in the last six months." In response to that information, this office responded to Mr. Kosinski informing him that, pursuant to the Final Order in this case, he was required to provide projects wherein he practiced Mechanical/Electrical and Civil Engineering or his Professional Engineering license will be placed on voluntary inactive status or he could petition the Board to modify the Final Order.

Discussion followed.

Upon motion by Mr. Hahn, seconded by Mr. Pepper, that a material change in circumstance has happened and therefore the final order should be modified as requested and to restrict his license from MEP and Civil disciplines, the motion passed.

X. Old Business

#1. Email from Mr. John Davis – Re: FBPE Continuing Education – Mr. Harris to report on this

Mr. Harris stated that board does not have the statutory authority to provide continuing education courses.

Y. New Business

Mr. Bracken stated that there would be a Rules Committee meeting on June 8th at 10am at the Crowne Plaza in Orlando.

Z. Public Forum

AA. Adjourn

