

**Minutes for
The Florida Board of Professional Engineers
February 10, 2016 beginning at 1:00 p.m. or soon thereafter and
February 11, 2016 beginning at 8:30 a.m., or soon thereafter
Crowne Plaza Orlando Universal
Orlando, Florida**

**Part I – Wednesday, February 10, 2016
(February 2016 FBPE Business Book)**

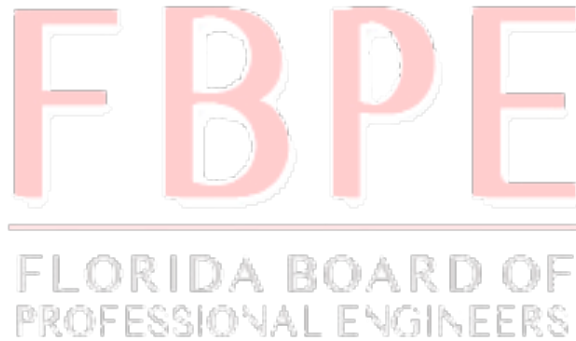
- A. Call to Order, Invocation, and Pledge of Allegiance to the Flag

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
Roland Dove, P.E.
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



Board Members Absent:

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

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

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

Ed Tellechea, Florida Attorney General's Office
Elizabeth Brady, Florida Attorney General's Office
Brett Rylands, FSEA
Steve Kowkabany, P.E., FEMC Board Member
Art Nordlinger, IEEE
Henry Hillman, 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, the agenda was approved. The motion passed.

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

#1. Minutes from the December 3-4, 2015 FBPE Board Meeting*

Mr. Todd made the following changes to the December 2015 FBPE Minutes:
Page 4, section (c) of the December 2015 FBPE Minutes should be "Upon motion by Mr. Todd... and the purpose of the motion was to meet with the individuals who objected to the proposed language and see if something could be worked out" and Page 23 of the same minutes should be "Mr. Bracken discussed how the NCEES Structural 1 Exam is now part of the NCEES 16 hour Structural Exam and how it is given."

Approved under consent agenda as amended.

#2. Minutes from January 22, 2016 FBPE Ratification Conference Call*

Approved under consent agenda.

Upon motion by Mr. Dove, seconded by Mr. Hahn, the consent agenda was approved. The motion passed.

G. Committee Reports

#1. Probable Cause Panel **(Next Meeting: March 8, 2016 at 8:30am)**

(Anthony Fiorillo, P.E., S.I., Chair; John Pepper, 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 January 12, 2016 Meeting*

Approved under consent agenda.

#2. Applications Review – Experience Committee **(Next Meeting: March 8, 2016 at 1pm)**

(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: March 8, 2016 at 1pm)**

(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 9, 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.

(b) Minutes from the Rules Committee meeting on January 13, 2016*

Approved under consent agenda.

(c) Public Hearing on Amendments to Rule 61G15-18.011 – Definitions

Mr. Harris reported on the proposed Rule Amendments to Rule 61G15-18.011:

61G15-18.011 Definitions.

As used in Chapter 471, F.S., and in these rules where the context will permit the following terms have the following meanings:

(1) "Responsible Charge" shall mean that degree of control an engineer is required to maintain over engineering decisions made personally or by others over which the engineer exercises supervisory direction and control authority. The engineer in responsible charge is the Engineer of Record as defined in subsection 61G15-30.002(1), F.A.C.

(a) The degree of control necessary for the Engineer of Record shall be such that the engineer:

1. Personally makes engineering decisions or reviews and approves proposed decisions prior to their implementation, including the consideration of alternatives, whenever engineering decisions which could affect the health, safety and welfare of the public are made. In making said engineering decisions, the engineer shall be physically present or, if not physically present, be available in a reasonable period of time, through the use of electronic communication devices, such as electronic mail, videoconferencing, teleconferencing, computer networking, or via facsimile transmission.

2. Judges the validity and applicability of recommendations prior to their incorporation into the work, including the qualifications of those making the recommendations.

3. Approves the inclusion of standard engineering design details into the engineering work. Standard engineering design details include details mandated or directed to be contained in engineering documents by governmental agencies (such as the Florida Department of Transportation); and details contained in engineering design manuals and catalogues that are generally accepted as authoritative in the engineering profession. In order to approve the inclusion of such details the Engineer of Record must conduct such reasonable analysis of the content of the standard detail(s) as is necessary in the sound professional judgment of the Engineer of Record to be assured that the inclusion of such detail(s) into the engineering work is acceptable engineering practice.

(b) Engineering decisions which must be made by and are the responsibility of the Engineer of Record are those decisions concerning permanent or temporary work which could create a danger to the health, safety, and welfare of the public, such as, but not limited to, the following:

1. The selection of engineering alternatives to be investigated and the comparison of alternatives for engineering works.
2. The selection or development of design standards or methods, and materials to be used.
3. The selection or development of techniques or methods of testing to be used in evaluating materials or completed works, either new or existing.
4. The development and control of operating and maintenance procedures.

(c) As a test to evaluate whether an engineer is the Engineer of Record, the following shall be considered:

1. The engineer shall be capable of answering questions relevant to the engineering decisions made during the engineer's work on the project, in sufficient detail as to leave little doubt as to the engineer's proficiency for the work performed and involvement in said work. It is not necessary to defend decisions as in an adversary situation, but only to demonstrate that the engineer in responsible charge made them and possessed sufficient knowledge of the project to make them. Examples of questions to be answered by the engineer could relate to criteria for design, applicable codes and standards, methods of analysis, selection of materials and systems, economics of alternate solutions, and environmental considerations. The individuals should be able to clearly define the span and degree of control and how it was exercised and to demonstrate that the engineer was answerable within said span and degree of control necessary for the engineering work done.
2. The engineer shall be completely in charge of, and satisfied with, the engineering aspects of the project.
3. The engineer shall have the ability to review design work at any time during the development of the project and shall be available to exercise judgment in reviewing these documents.
4. The engineer shall have personal knowledge of the technical abilities of the technical personnel doing the work and be satisfied that these capabilities are sufficient for the performance of the work.

(d) The term "responsible charge" relates to engineering decisions within the purview of the Professional Engineers Act and does not refer to management control in a hierarchy of professional engineers except as each of the individuals in the hierarchy exercises independent engineering judgement and thus responsible charge. It does not refer to administrative and personnel management functions. While an engineer may also have such duties in this position, it should not enhance or decrease one's status of being in responsible charge of the work. The phrase does not refer to the concept of financial liability.

(2) "Engineering Design" shall mean that the process of devising a system, component, or process to meet desired needs. It is a decision-making process (often iterative), in which the basic sciences, mathematics, and engineering sciences are applied to convert resources optimally to meet a stated objective. Among the fundamental elements of the design process are the establishment of objectives and criteria, synthesis, analysis, construction, testing and evaluation. Central to the process are the essential and complementary roles of synthesis and analysis. This definition is intended to be interpreted in its broadest sense. In particular the words "system, component, or process" and "convert resources optimally" operate to indicate that sociological, economic, aesthetic, legal, ethical, etc., considerations can be included.

(3) The term "evaluation of engineering works and systems" as used in the definition in the practice of engineering set forth in Section 471.005(7), F.S., includes but is not limited to services provided by testing laboratories involving the following:

(a) The planning and implementation of any investigation or testing program for the purpose of developing design criteria either by an engineering testing laboratory or other professional engineers.

(b) The planning or implementation of any investigation, inspection or testing program for the purpose of determining the causes of failures.

(c) The preparation of any report documenting soils or other construction materials test data.

(d) The preparation of any report offering any engineering evaluation, advice or test results, whenever such reports go beyond the tabulation of test data. Reports which document soils or other construction materials test data will be considered as engineering reports.

(e) Services performed by any entity or provided by a testing laboratory for any entity subject to regulation by a state or federal regulatory agency which enforces standards as to testing shall be exempt from this rule except where the services otherwise would require the participation of a professional engineer.

(4) "Certification" shall mean a statement signed and sealed by a professional engineer representing that the engineering services addressed therein, as defined in Section 471.005(6), F.S., have been performed by the professional engineer, and based upon the professional engineer's knowledge, information and belief, and in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.

(5) The term "principal officer(s) of the business organization" as used in Section 471.023(1), F.S., means the (a) President, Vice President, Secretary or Treasurer of the Corporation, or Limited Liability Company (LLC); or (b) any other officer who has management responsibilities in the corporation or LLC, as documented by the corporate charter or bylaws so long as such documentation provides that such officer is empowered to bind the corporation or LLC in all of its activities which fall within the definition of the practice of engineering as that term is defined in Section 471.005(7), F.S.

(6) The term "Florida Building Code" shall mean the Florida Building Code, 5th Edition, (2014), and which is incorporated herein by reference. The material incorporated is copyrighted material that is available for public inspection and examination at the Department of State, Administrative Code and Register Section, Room 701, The Capitol, Tallahassee, Florida 32399-0250, and at the Office of Codes and Standards, 1940 North Monroe Street, Room 90, Tallahassee, Florida 32399-0772.

Rulemaking Authority 471.008, 471.013(1)(a)1., 2. FS. Law Implemented 471.003(2)(f), 471.005(7), 471.005(6), 471.013(1)(a)1., 2., 471.023(1), 471.025(3), 471.033(1)(j) FS. History—New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended 12-22-99, 4-19-01, 10-16-02, 9-15-04, 6-5-08, 6-2-09, 2-2-12, .

Upon motion by Mr. Hahn, seconded by Ms. Boza, to open the rule for development and approve the proposed rule amendment for Rule 61G15-18.011, the motion passed.

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

Upon motion by Mr. Fleming, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business, the motion passed.

Mr. Harris asked 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.

Upon motion by Dr. Roddenberry, seconded by Mr. Fiorillo, that the proposed rule amendments will not increase regulatory costs, the motion passed.

(d) Public Hearing on Amendments to Rule 61G15- 19.001 – Grounds for Disciplinary Proceedings

Mr. Harris reported on the proposed rule amendments to Rule 61G15-19.001:

61G15-19.001 Grounds for Disciplinary Proceedings.

(1) Pursuant to Section 471.033(2), F.S., the Board, to the extent not otherwise set forth in Florida Statutes, hereby specifies that the following acts or omissions are grounds for disciplinary proceedings pursuant to Section 471.033(1), F.S.

(2) A professional engineer shall not advertise in a false, fraudulent, deceptive or misleading manner. As used in Section 471.033(1)(f), F.S., the term “advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content” shall include without limitation a false, fraudulent, misleading, or deceptive statement or claim which:

- (a) Contains a material misrepresentation of facts;
- (b) Omits to state any material fact necessary to make the statement in the light of all circumstances not misleading;
- (c) Is intended or is likely to create an unjustified expectation;
- (d) States or implies that an engineer is a certified specialist in any area outside of his field of expertise;
- (e) Contains a representation or implication that is likely to cause an ordinary prudent person to misunderstand or be deceived or fails to contain reasonable warnings or disclaimers necessary to make a representation or implication not deceptive;
- (f) Falsifies or misrepresents the extent of his education, training or experience to any person or to the public at large, tending to establish or imply qualification for selection for engineering employment, advancement, or professional engagement.

A professional engineer shall not misrepresent or exaggerate his degree of responsibility in or for the subject matter of prior assignments;

(g) In any brochure or other presentation made to any person or to the public at large, incident to the solicitation of an engineering employment, misrepresents pertinent facts concerning a professional engineer's employer, employees, associates, joint ventures, or his or their past accomplishments with the intent and purpose of enhancing his qualifications and his works.

(3) A professional engineer, corporation or partnership shall not practice engineering under an assumed, fictitious or corporate name that is misleading as to the identity, responsibility or status of those practicing thereunder or is otherwise false, fraudulent, misleading or deceptive within the meaning of subsection 61G15-19.001(2), F.A.C. When an individual is practicing engineering as a sole proprietor under a combination of his own given name, and terms such as "engineering," "and associates" or "and company," then said person is practicing engineering under a fictitious name, and must obtain a certificate of authorization pursuant to Section 471.023(2), F.S. The name of a corporation or partnership, if otherwise authorized, may include the name or names of one or more deceased or retired members of the firm, or of a predecessor firm in a continuing line of succession. An engineering firm may not offer services to the public under a firm name which contains only the name of an individual not licensed as a professional engineer, registered architect, land surveyor, landscape architect, or professional geologist, in any state.

(4) A professional engineer shall not be negligent in the practice of engineering. The term negligence set forth in Section 471.033(1)(g), F.S., is herein defined as the failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering principles. Professional engineers shall approve and seal only those documents that conform to acceptable engineering standards and safeguard the life, health, property and welfare of the public.

Failure to comply with the procedures set forth in the Responsibility Rules as adopted by the Board of Professional Engineers shall be considered as non-compliance with this section unless the deviation or departures therefrom are justified by the specific circumstances of the project in question and the sound professional judgment of the professional engineer.

(5) A professional engineer shall not be incompetent to practice engineering. Incompetence in the practice of engineering as set forth in Section 471.033(1)(g), F.S., shall mean the physical or mental incapacity or inability of a professional engineer to perform the duties normally required of the professional engineer.

(6) A professional engineer shall not commit misconduct in the practice of engineering. Misconduct in the practice of engineering as set forth in Section 471.033(1)(g), F.S., shall include, but not be limited to:

(a) Expressing an opinion publicly on an engineering subject without being informed as to the facts relating thereto and being competent to form a sound opinion thereupon;

(b) Being untruthful, deceptive, or misleading in any professional report, statement, or testimony whether or not under oath or omitting relevant and pertinent information from such report, statement or testimony when the result of such

omission would or reasonably could lead to a fallacious conclusion on the part of the client, employer or the general public;

(c) Performing an engineering assignment when not qualified by training or experience in the practice area involved;

1. All professional engineer asbestos consultants are subject to the provisions of Sections 455.301-.309, F.S., Chapter 471, F.S., and Rule 61G15-19, F.A.C., and shall be disciplined as provided therein.

2. The approval of any professional engineer as a "special inspector" under the provisions of Chapter 553, F.S., does not constitute acceptance by the Board that any such professional engineer is in fact qualified by training or experience to perform the duties of a "special inspector" by virtue of training or experience. Any such professional engineer must still be qualified by training or experience to perform such duties and failure to be so qualified could result in discipline under this chapter or Chapter 471, F.S.;

(d) Affixing a signature or seal to any engineering plan or document in a subject matter over which a professional engineer lacks competence because of inadequate training or experience;

(e) Offering directly or indirectly any bribe or commission or tendering any gift to obtain selection or preferment for engineering employment with the exception of the payment of the usual commission for securing salaried positions through licensed employment agencies;

(f) Becoming involved in a conflict of interest with an employer or client, without the knowledge and approval of the client or employer, but if unavoidable a professional engineer shall immediately take the following actions:

1. Disclose in writing to his employer or client the full circumstances as to a possible conflict of interest; and

2. Assure in writing that the conflict will in no manner influence the professional engineer's judgment or the quality of his services to his employer or client; and

3. Promptly inform his client or employer in writing of any business association, interest or circumstances which may be influencing his judgment or the quality of his services to his client or employer;

(g) Soliciting or accepting financial or other valuable considerations from material or equipment suppliers for specifying their products without the written consent to the engineer's employer or client;

(h) Soliciting or accepting gratuities directly or indirectly from contractors, their agents or other parties dealing with the professional engineer's client or employer in connection with work for which the professional engineer is responsible without the written consent of the engineer's employer or client;

(i) Use by a professional engineer of his engineering expertise and/or his professional engineering status to commit a felony;

(j) Affixing his seal and/or signature to plans, specifications, drawings, or other documents required to be sealed pursuant to Section 471.025(1), F.S., when such document has not been personally prepared by the engineer or prepared under his responsible supervision, direction and control;

(k) A professional engineer shall not knowingly associate with or permit the use of his name or firm name in a business venture by any person or firm which he knows

or has reason to believe is engaging in business or professional practices of a fraudulent or dishonest nature;

(l) If his engineering judgment is overruled by an unqualified lay authority with the results that the public health and safety is threatened, failure by a professional engineer to inform his employer, responsible supervision and the responsible public authority of the possible circumstances;

(m) If a professional engineer has knowledge or reason to believe that any person or firm is guilty of violating any of the provisions of Chapter 471, F.S., or any of these rules of professional conduct, failure to immediately present this information to FEMC;

(n) Violation of any law of the State of Florida directly regulating the practice of engineering;

(o) Failure on the part of any professional engineer or certificate holder to obey the terms of a final order imposing discipline upon said professional engineer or certificate holder;

(p) Making any statement, criticism or argument on engineering matters which is inspired or paid for by interested parties, unless the professional engineer specifically identifies the interested parties on whose behalf he is speaking, and reveals any interest he or the interested parties have in such matters;

(q) Sealing and signing all documents for an entire engineering project, unless each design segment is signed and sealed by the professional engineer in responsible charge of the preparation of that design segment;

(r) Revealing facts, data or information obtained in a professional capacity without the prior consent of the professional engineer's client or employer except as authorized or required by law.

(s) Renewing or reactivating a license without completion of Continuing Education (CE) hours and subject areas as required by section 471.017, F.S. and Rule 61G15-22.001, F.A.C.

(7) A professional engineer who performs building code inspector or plans examiner duties in accordance with Section 471.045, F.S., or Sections 468.603(6), (7), F.S., shall be subject to disciplinary action for commission of the following:

(a) Violating or failing to comply with any provision of Chapter 471, F.S., or the rules of the Board of Professional Engineers;

(b) Having been convicted of a crime in any jurisdiction which directly relates to the practice of building code inspection or plans examination;

(c) Making or filing a false report or record, inducing another to file a false report or record, failing to file a report or record required by state or local law, impeding or obstructing such filing, or inducing another person to impede or obstruct such filing.

(8) A professional engineer shall not be negligent in the practice of engineering while performing duties as a special inspector. Negligence is herein defined as the failure by a professional engineer to utilize due care in performing in an engineering capacity or failing to have due regard for acceptable standards of engineering and special inspection principles. Failure to comply with the procedures set forth in the Responsibility Rules for Professional Engineers Providing Threshold Building Inspection, as adopted by the Board of Professional Engineers, shall be considered non-compliance with this section unless the deviation or departures therefrom are

justified by the specific circumstances of the project in question and the sound professional judgment of the engineer.

Specific Authority 471.033(2) FS. Law Implemented 471.025(1), 471.033(1)(f), (g), (2) FS. History—New 1-8-80, Amended 6-23-80, 3-23-81, 6-4-85, Formerly 21H-19.01, Amended 5-14-86, 4-23-87, 11-8-88, 1-11-89, 7-3-90, 11-9-92, Formerly 21H-19.001, Amended 11-27-94, 5-20-02

Upon motion by Mr. Hahn, seconded by Mr. Fiorillo, to open the rule for development and approve the proposed rule amendment for Rule 61G15-19.001 was approved, the motion passed.

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

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business, the motion passed.

Mr. Harris asked 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.

Upon motion by Mr. Hahn, seconded by Mr. Fleming, that the proposed rule amendments will not increase regulatory costs, the motion passed.

(e) Public Hearing on Amendments to Rule 61G15-19.004 – Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

Mr. Harris reported on the proposed rule amendments to Rule 61G15-19.004:

61G15-19.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners (including holders of certificate of authorization) guilty of violating Chapter 471, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of Chapter 471, F.S. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of Chapter 471, F.S., or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint will be grounds for enhancement of penalties. All penalties at the upper range of the sanctions set

forth in the guidelines, i.e., suspension, revocation, etc., include lesser penalties, i.e., fine, probation or reprimand which may be included in the final penalty at the Board's discretion. All impositions of probation as a penalty shall include successful completion of the Engineering Law and Rules Study Guide, completion of a Board-approved course in Engineering Professionalism and Ethics, and an appearance before the Board at the option of the Board at the end of the probationary period. Other terms may be imposed by the Board at its discretion.

(2) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	FIRST VIOLATION	SECOND AND SUBSEQUENT VIOLATIONS
(a) Violating any provision of Section 455.227(1), 471.025 or 471.031, F.S., or any other provision of Chapter 471, F.S., or rule of the Board or Department (Sections 471.033(1)(a) and 455.227(1)(b), (c), F.S.)	Reprimand and \$1,000 fine, to One (1) year suspension, two (2) years probation and \$5,000 fine	One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation
1. Failure to sign, seal or date documents (Section 471.025(1), F.S.)	Reprimand to one (1) year probation	Reprimand and one (1) year probation to Revocation
2. Sealing any document after license has expired or been revoked or suspended, or failure to surrender seal if the license has been revoked or suspended (Section 471.025(2), F.S.)	Suspended license: Revocation and \$1,000 fine Revoked license: Referral to State's Attorney's office	Suspended license: Revocation and \$5,000 fine Revoked license: Referral to State's Attorney's office
3. Signing or sealing any document that depicts work the licensee is not licensed to perform or which is beyond his or her profession or specialty therein or practicing or offering to practice beyond the scope permitted by law or accepting and performing responsibilities the licensee is not competent to perform (Sections 471.025(3), 455.227(1)(o), F.S., paragraphs 61G15-19.001(6)(c), (d), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine; to \$5,000 fine, one (1) year suspension and two (2) years probation	Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation to Revocation
4. Firm practicing without certificate of authorization (Section 471.023, F.S. and subsection 61G15-19.001(3), F.A.C.)	Reprimand, \$1,000 fine to one (1) year suspension and \$5,000 fine	Reprimand, one (1) year suspension and \$5,000 fine to Revocation
5. Failure to complete continuing education (Section 471.017(3), F.S. and Rule 61G15-22.001, F.A.C.)	Reprimand and \$1,000 fine, to Suspension until licensee demonstrates compliance	Suspension until licensee demonstrates compliance to Revocation

56. Practicing engineering without a license or using a name or title tending to indicate that such person holds an active license as an engineer (Sections 471.031(1)(a), (b), F.S.)	\$1,000 fine to \$5,000 fine	\$5,000 fine to \$10,000 fine to referral to State Attorney's Office
67. Presenting as his or her own the license of another (Section 471.031(1)(c), F.S.)	\$1,000 fine to \$5,000 fine	\$5,000 fine to \$10,000 fine and referral to State Attorney's Office
78. Giving false or forged evidence to the Board or concealing information relative to violations of this chapter (Sections 471.031(1)(d), (g), F.S.)	\$1,000 fine to \$5,000 fine and suspension	Reprimand and \$5,000 fine to Revocation
89. Employing unlicensed persons to practice engineering or aiding, assisting, procuring, employing unlicensed practice or practice contrary to Chapter 455 or 471, F.S. (Sections 471.031(1)(f) and 455.227(1)(i), F.S.)	\$1,000 fine and reprimand; to \$5,000 and suspension	Reprimand and \$5,000 fine to Revocation
910. Having been found liable for knowingly filing a false complaint against another licensee (Section 455.227(1)(g), F.S.)	\$1,000 fine and reprimand; to \$5,000 per count and suspension	Reprimand and \$5,000 fine to Revocation
1011. Failing to report a person in violation of Chapter 455, Chapter 471, F.S., or the rules of the Board or the Department (Section 455.227(1)(i), F.S.)	Reprimand to \$5,000 and suspension for one (1) year	Reprimand and \$5,000 fine to Revocation
1112. Failing to perform any statutory or legal obligation (Section 455.227(1)(k), F.S.)	Depending on the severity of the offense, from a Reprimand to Revocation	Depending on the severity of the offense, from a Reprimand to Revocation
1213. Exercising influence on a client for financial gain (Section 455.227(1)(n), F.S.)	Reprimand to one (1) year suspension and \$5,000 fine	Reprimand and \$5,000 fine to Revocation
1314. Improper delegation of professional responsibilities (Section 455.227(1)(p), F.S.)	\$1,000 fine and probation for one (1) year, to suspension	Reprimand and \$5,000 fine to Revocation
1415. Improperly interfering with an investigation or inspection or disciplinary proceeding (Section 455.227(1)(r), F.S.)	\$1,000 fine and probation for one (1) year; to suspension	Reprimand and \$5,000 fine to Revocation
(b) Attempting to procure a license by bribery, fraudulent misrepresentation, or error of the Board or Department (Sections 471.033(1)(b) and 455.227(1)(h), F.S.)	One (1) year suspension and \$1,000 fine, to Revocation if licensed; if not licensed, denial of license and referral to State Attorney	Revocation and \$5,000 fine if licensed; if not licensed, denial of license and referral to State Attorney

(c) Having a license to practice engineering acted against or denied by another jurisdiction (Sections 471.033(1)(c) and 455.227(1)(f), F.S.)	Same penalty as imposed in other jurisdiction or as close as possible to penalties set forth in Florida Statutes	Same penalty as imposed in other jurisdiction or as close as possible to penalties set forth in Florida Statutes
(d)1. Being convicted or found guilty of, or entering a plea of nolo contendere to a crime which relates to the practice or ability to practice (Sections 471.033(1)(d) and 455.227(1)(c), F.S.)	Depending on the severity of the crime, from Reprimand \$1,000 fine, and one (1) year probation, to Revocation	Depending on the severity of the crime, from one (1) year suspension with 2 years probation to Revocation
2. Conviction of crime related to building code inspection or plans examination (paragraph 61G15-19.001(7)(a), F.A.C.)	Reprimand \$1,000 fine, and one (1) year probation	One (1) year suspension with 2 years probation to Revocation
(e) Knowingly making or filing a false report or record, failing to file a report or record required by law, impeding or obstructing such filing (Sections 471.033(1)(e), 455.227(1)(l), F.S. and paragraph 61G15-19.001(7)(c), F.A.C.)	Reprimand and \$1,000 fine to one (1) year suspension, two (2) years probation	One (1) year suspension, 2 years probation, and \$1,000 fine, to Revocation and \$5,000 fine
(f) Fraudulent, false, deceptive or misleading advertising (Sections 471.033(1)(f), F.S. and subsection 61G15-19.001(2), F.A.C.)	Reprimand to one (1) year probation and \$5,000 fine	One (1) year probation and \$5,000 fine to Revocation
(g) Fraud, deceit, negligence, incompetence or misconduct (Sections 471.033(1)(g) and 455.227(1)(a), (m), F.S.)		
1. Fraud or deceit	Reprimand, two (2) years probation and \$1,000 fine, to one (1) year suspension and \$5,000 fine	One (1) year suspension and \$5,000 fine to Revocation
2.a. Negligence (subsection 61G15-19.001(4), F.A.C.)	Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine, five (5) year suspension and ten (10) years probation	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation
b. Negligence in procedural requirements (subsections 61G15-30.003(2),(3) and (5), F.A.C.; Rules 61G15-30.005 and 61G15-30.006, F.A.C.)	Reprimand to two (2) years probation and \$1,000 fine	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation
c. As a special inspector	Reprimand, two (2) years probation and \$1,000 fine, to \$5,000 fine	Two (2) years probation and \$1,000 fine, to \$5,000 fine and Revocation

3. Incompetence (subsection 61G15-19.001(5), F.A.C.)	Two (2) year probation to Suspension until ability to practice proved followed by two (2) year probation	Suspension until ability to practice proved followed by two (2) year probation, to Revocation
4. Misconduct (subsection 61G15-19.001(6), F.A.C.)	Reprimand and \$1,000 fine to one (1) year suspension	One (1) year suspension to Revocation and \$5,000 fine.
a. Expressing an opinion publicly on an engineering subject without being informed as to the facts and being competent to form a sound opinion (paragraph 61G15-19.001(6)(a), F.A.C.)	Reprimand and \$1,000 fine to one (1) year suspension	One (1) year suspension to Revocation and \$5,000 fine
b. Being untruthful, deceptive or misleading in any professional report, statement or testimony or omitting relevant and pertinent information from such report, statement or testimony when the result or such omission would or reasonably could lead to a fallacious conclusion (paragraph 61G15-19.001(6)(b), F.A.C.)	Reprimand and \$1,000 fine to one (1) year suspension	One (1) year suspension to Revocation and \$5,000 fine
c. Offering directly or indirectly any bribe or commission or tendering any gift to obtain selection or preferment for engineering employment other than the payment of the usual commission for securing salaried positions through licensed employment agencies (paragraph 61G15-19.001(6)(c), F.A.C.)	Reprimand, \$5,000 fine per count and suspension for five (5) years, to Revocation	Five (5) years suspension to Revocation
d. Soliciting or accepting gratuities without client knowledge (paragraphs 61G15-19.001(6)(g), (h), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine, to one (1) year suspension, two (2) years probation and \$5,000 fine	One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation
e. Failure to preserve client's confidence (paragraph 61G15-19.001(6)(r), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine, to one (1) year suspension, two (2) years probation (if pecuniary benefit accrues to engineer)	One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation
f. Professional judgment overruled by unqualified person (paragraph 61G15-19.001(6)(i), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine, to one (1) year suspension, two (2) years probation and \$5,000 fine	One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation

g. Use of name/firm in fraudulent venture (paragraph 61G15-19.001(6)(k), F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine, to \$5,000 fine, one (1) year suspension and two (2) years probation	One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation
h. Undisclosed conflict of interest (paragraphs 61G15-19.001(6)(f), (p), F.A.C.)	Reprimand, \$1,000 fine and two (2) years probation, to Revocation and \$5,000 fine	One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation
i. <u>Renewing or reactivating a license without completion of continuing education hours</u> (paragraph 61G15-19.001(6)(s), F.A.C.)	<u>Reprimand and \$1,000 fine, to Suspension until licensee demonstrates compliance</u>	<u>One (1) year suspension and \$1,000 fine to Revocation</u>
(h) Violating any provision of Chapter 455, F.S. (Sections 471.033(1)(h) and 455.227(1)(q), F.S.)	Depending on the severity of the violation, Reprimand and \$1,000 fine per count, to \$5,000 fine and revocation	Depending on the severity of the violation, One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation
(i) Practicing on a revoked, suspended, inactive or delinquent license (Sections 471.033(1)(i) and 471.031(1)(e), F.S.)		
1. Delinquent license	Fine based on length of time in practice while inactive; \$100/month or \$1,000 maximum, renewal of license or cease practice	
2. Inactive license	Fine based on length of time in practice while inactive; \$100/month or \$1,000 maximum, renewal of license or cease practice	
3. Suspended license	Revocation and \$1,000 fine	
4. Revoked license	Referral to State Attorney	Referral to State Attorney
(j) Affixing or permitting to be affixed his or her seal, name, or digital signature to any documents that were not prepared by him or her or under his or her responsible supervision, direction or control (Section 471.033(1)(j), F.S. and paragraphs 61G15-19.001(6)(i) (a) F.A.C.)	Reprimand, one (1) year probation and \$1,000 fine, to \$5,000 fine, one (1) year suspension and two (2) years probation	One (1) year suspension, two (2) years probation and \$5,000 fine to Revocation

(k) Violating any order of the board or department (Sections 471.033(1)(k), 455.227(1)(q), F.S. and paragraph 61G15-19.001(6)(o), F.A.C.)	Depending on the severity of the violation, from Suspension until compliant with the order of the Board and \$1,000 fine, to Revocation and \$5,000 fine	Depending on the severity of the violation, Suspension until compliant with the order of the Board and \$1,000 fine, to Revocation and \$5,000 fine
(l) Aiding, assisting, procuring, employing unlicensed practice or practice contrary to Chapter 455 or 471, F.S. (Section 455.227(1)(j), F.S.)	\$1,000 fine and probation for one (1) year, to \$5,000 fine and suspension	Reprimand and \$5,000 fine to Revocation
(m) Failing to report in writing a conviction or plea of nolo contendere, a crime in any jurisdiction (Section 455.227(1)(t), F.S.)	Reprimand to \$5,000 fine	Six (6) month suspension to \$5,000 fine and Revocation

(3) The board shall be entitled to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the board prior to the imposition of a final penalty. The fact that a Hearing Officer of the Division of Administrative Hearings may or may not have been aware of the below mentioned aggravating or mitigating circumstances prior to a recommendation of penalty in a Recommended Order shall not obviate the duty of the board to consider aggravating and mitigating circumstances brought to its attention prior to the issuance of a Final Order.

(a) Aggravating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the enhancement of a penalty beyond the maximum level of discipline in the guidelines shall include but not be limited to the following:

1. History of previous violations of the practice act and the rules promulgated thereto.
2. In the case of negligence; of the magnitude and scope of the project and the damage inflicted upon the general public by the licensee's misfeasance.
3. Evidence of violation of professional practice acts in other jurisdictions wherein the licensee has been disciplined by the appropriate regulatory authority.
4. Violation of the provision of the practice act wherein a letter of guidance as provided in Section 455.225(3), F.S., has previously been issued to the licensee.

(b) Mitigating circumstances; circumstances which may justify deviating from the above set forth disciplinary guidelines and cause the lessening of a penalty beyond the minimum level of discipline in the guidelines shall include but not be limited to the following:

1. In cases of negligence, the minor nature of the project in question and lack of danger to the public health, safety and welfare resulting from the licensee's misfeasance.
2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices his profession.
3. Restitution of any damages suffered by the licensee's client.
4. The licensee's professional standing among his peers including continuing education.
5. Steps taken by the licensee or his firm to insure the non-occurrence of similar violations in the future.

Rulemaking Authority 455.227, 471.008, 471.031, 471.033 FS. Law Implemented 455.227, 471.031, 471.033 FS. History–New 1-7-87, Formerly 21H-19.004, Amended 11-27-94, 5-22-01, 11-15-01, 5-20-02, 11-21-06, 2-21-10.

Upon motion by Mr. Fiorillo, seconded by Dr. Roddenberry, to open the rule for development and approved the proposed rule amendment for Rule 61G15-19.001 was approved, the motion passed.

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

Upon motion by Mr. Fiorillo, seconded by Dr. Roddenberry, that the proposed rule amendments will have no adverse impact on small business, the motion passed.

Mr. Harris asked 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.

Upon motion by Mr. Fiorillo, seconded by Dr. Roddenberry, that the proposed rule amendments will not increase regulatory costs, the motion passed.

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

Mr. Harris stated that this rule change is to change an application and that Ms. Holladay had a number of questions about the application.

(i) Comments from JAPC on PE Application (PE Application attached)

Mr. Harris reported on the concerns from JAPC.

Discussion followed.

This item was tabled until the April 2016 FBPE Board meeting to allow Mr. Harris to work with staff on the JAPC concerns.

(ii) Update the Fundamentals Application

This item was tabled until the April 2016 FBPE Board meeting to allow Mr. Harris to work with staff on the JAPC concerns from the FE Application.

- (g) Public Hearing on Rule 61G15-23.005 - Procedures for Electronically Signing and Sealing Electronically Transmitted Plans, Specifications, Reports or Other Documents

Mr. Harris stated that additional concerns have been raised about the rule and that language pertaining to the PEDS program remained in the rule. Mr. Bracken and Mr. Fleming are going to work on separate issues with the rule.

This item was tabled until the April 2016 FBPE Board meeting to allow Mr. Bracken and Mr. Fleming to work on their respective assignments concerning this rule.

- (h) Public Hearing on Amendments to Rule 61G15-24.001 – Schedule of Fees

Mr. Harris reported on the proposed rule amendments to Rule 61G15-24.001:

61G15-24.001 Schedule of Fees.

- (1) Pursuant to Section 471.011, F.S., the Board hereby establishes the following fees for applications, licensing and renewal, temporary registration, late renewal, licensure by endorsement, reactivation fee, and replacement of certificate.
- (2) Engineering licensure fees (individuals and firms):
 - (a) Application fee for licensure by examination or endorsement – \$125.00 non-refundable.
 - (b) Initial license fee – \$100.00.
 - (c) Biennial renewal fee – \$125.00.
 - (d) Delinquency fee – \$100.00.
 - (e) Temporary license (individual) – \$25.00.
 - (f) Temporary Certificate of Authorization (firm) – \$50.00.
 - (g) Application fee for a Certificate of Authorization (firm) – \$125.00 non-refundable.
 - (h) Initial fee for Certificate of Authorization – \$125.00.
 - (i) Biennial Renewal fee for Certificate of Authorization (firm) – \$125.00.
 - (j) Inactive Status fee – \$125.00.
 - (k) Reactivation fee – \$150.00.
 - (l) Duplicate Certificate – \$25.00.
 - (m) Special Inspector Certification fee – \$100.00.
 - (n) Application fee for Special Inspector Certification – \$125.00.
 - (o) Engineer Intern Endorsement fee – \$100.00.
- (3) Engineer Intern application fee – \$30.00.

(4) Continuing Education provider fees

(a) Application fee for continuing education provider status - \$250.00.

(b) Application fee for Laws and Rules continuing education course (per course)- \$50.

(c) Application fee for Professional Ethics continuing education course (per course) - \$50.

Rulemaking Authority 455.213, 455.2179(3), 455.219, 455.271, 471.008, 471.011, FS. Law Implemented 455.217(3), (7), 471.011, 471.015, 471.021 FS. History—New 1-8-80, Amended 8-26-81, 12-19-82, 6-2-83, 2-28-84, Formerly 21H-24.01, Amended 3-10-86, 12-11-86, 3-10-87, 4-12-88, 12-21-88, 1-10-90, 8-15-90, 1-6-93, Formerly 21H-24.001, Amended 11-15-94, 8-10-98, 6-16-99, 5-8-00, 11-15-01, 2-21-02, 9-16-02, 5-9-04, 6-5-05, 3-5-06, 7-17-14, .

Upon motion by Mr. Todd, seconded by Mr. Hahn, to open the rule for development and approve the suggested rule language for Rule 61G15-24.001, the motion passed.

Mr. Harris asked if the suggested rule language will have an adverse impact on small business.

Upon motion by Dr. Roddenberry, seconded by Mr. Fiorillo, that the suggested rule language will have an adverse impact on small business, the motion passed. A SERC will be prepared and presented to the Board prior to the approved language being proposed.

(i) Public Hearing on Rule 61G15-32.004 – Design of Water Based Fire Protection Systems

Mr. Harris discussed the concerns from JAPC. Mr. Harris was authorized to proceed with tolling the rule until the Florida Building Code is incorporated in Rule 61G15-18.011. Once that rule is filed for adoption, 61G15-32.004 can proceed with adoption, using the term "Florida Building Code" alone.

(j) Public Hearing on Amendments to Rule 61G15-35.003 – Qualification Program for Special Inspectors of Threshold Buildings

Mr. Harris reported on the proposed rule amendments to Rule 61G15-35.003:

61G15-35.003 Qualification Program for Special Inspectors of Threshold Buildings.

(1) The minimum qualifying criteria for Special Inspectors of Threshold Buildings, also referred to as Threshold Inspectors, established by the Board shall be as follows:

(a) Proof of current licensure in good standing as a licensed professional engineer in the State of Florida whose principal practice is structural engineering or whose principal practice is in performing structural field inspections on Threshold Buildings.

(b) Licensed professional engineers whose principal practice is structural engineering shall also have three (3) years of experience in performing structural field inspections on threshold buildings and two (2) years of experience in the structural design of threshold buildings after having achieved licensure as a professional engineer. Such experience shall be within the seven (7) years preceding submission of the application. For the purpose of these criteria, structural design shall mean the design of all structural components of the building and shall not be limited to specific structural components only, such as foundations, prestressed or post-tensioned concrete, etc.

(c) Licensed professional engineers whose principal practice is structural field inspections shall have five (5) years of experience in performing structural field inspections on Threshold Buildings within the preceding seven (7) years prior to submission of the application and possess certification in each of the certifications identified in Rule 61G15-35.004(2)(f), F.A.C. following: advanced concrete inspection, advanced structural masonry inspection, advanced post tensioning, basic structural steel and basic soils from a nationally recognized entity such as ACI, ICC, Florida Concrete and Products Association, and Post Tension Institute, Florida DOT CEQUTP or equivalent.

(2) Applications.

(a) The instructions and application form for Special Inspector, Form FBPE/TBI/006 (10/15) is hereby incorporated by reference, "Application for Special Inspector Certification". Copies of Form FBPE/TBI/006 may be obtained from the Board office or by downloading it from the internet web site www.fbpe.org/licensure/application-process or at <https://www.flrules.org/gateway/reference.asp?NO=Ref-04511>.

(b) All applications for certification as a Special Inspector shall be submitted to the Board on Form FBPE/TBI/006.

(c) Applications shall contain the following basic information pertaining to the applicant:

1. Name;
2. Florida license number;
3. Experience dates and sufficient description of each to clearly demonstrate that the minimum qualification criteria has been met;
4. Letters of recommendation from three registered professional engineers whose principal practice is structural engineering in the State of Florida, one of whom must be certified as a Special Inspector;
5. The signature, date and seal by the applicant attesting to the competency of the applicant to perform structural inspections on threshold buildings; and
6. Completed form FBPE/TBI/006.

(d) Upon a determination that the application contains all of the information requested by these rules, review of the application shall be scheduled for

consideration by the Board. Such applications may be approved, rejected or deferred for further information by the Board. If the Board defers an application for additional information, it shall notify the applicant of the information needed. Applicants shall be notified in writing of the Board's actions as soon as practicable and, in the case of rejected applications, the Board shall set forth the reasons for such rejection.

(3) Temporary Certification. Professional engineers who have been granted temporary licensure in Florida pursuant to the provisions of Section 471.021, F.S., shall also be granted temporary certification as a Special Inspector provided the criteria set forth in these rules have been met. Such temporary certification shall be limited to work on one specific project in this state for a period not to exceed one year.

(4) Roster of Special Inspectors. The Board shall maintain a roster of all persons certified as Special Inspectors pursuant to the criteria established in these rules and the law. The roster shall be made available to interested parties upon request. The roster shall be updated on a continuing basis and additions or deletions to the latest published roster may be verified by contacting the Board office.

Rulemaking Authority 471.008, 471.033(2) FS. Law Implemented 471.015(7), 471.033 FS. History—New 4-19-01, Amended 7-7-02, 4-5-04, 11-29-04, 2-4-13,

Upon motion by Mr. Todd, seconded Dr. Roddenberry, to open for development and approve the the proposed rule amendments to Rule 61G15-35.003, the motion passed.

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

Upon motion by Mr. Fiorillo, seconded by Mr. Hahn, that the proposed rule amendments will have no adverse impact on small business nor will increase regulatory costs, the motion passed.

#5. Education Rules Committee

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

(a) Committee Chair's Report.

No Report.

#6. Joint Engineer/Architect Task Force Committee **(Next Meeting: February 10, 2016 at 8:30am)**

(William Bracken, P.E., S.I., Chair; Warren Hahn, P.E.; John Pepper, P.E., S.I.)

(a) Committee Chair's Report.

Mr. Bracken stated that the committee met this morning with the Architect's Board and would meet again next February.

#7. Practicing Engineer Committee

(Michelle Roddenberry, Ph.D., P.E., Chair; Kevin Fleming, P.E.; John Pepper, P.E., S.I.; Kenneth Todd, P.E.; Babu Varghese, P.E., S.I.)

(a) Committee Chair's Report.

No Report.

#8. Structural Rules Committee

(Kevin Fleming, P.E., Chair; John Pepper, P.E., S.I.)

(a) Committee Chair's Report.

No report.

#9. Marine Engineer Committee

(Babu Varghese, P.E., S.I. Chair; Roland Dove, P.E., Elizabeth Ferguson, Public Member)

(a) Committee Chair's Report.

Mr. Harris stated that the Marine Engineer Committee has the same issues as the Traffic Engineering Committee.

Mr. Rimes stated that the board needs to have a statement as to the position of the Board on this committee.

Upon motion by Mr. Dove, seconded by Mr. Hahn, to discontinue the Marine Engineering Committee and allow Mr. Harris to respond to any complaints or concerns with this action, the motion passed.

#10. Traffic Engineering Committee

(Kenneth Todd, P.E., Chair; Anthony Fiorillo, P.E., S.I.; Roland Dove, P.E.,)

(a) Committee Chair's Report.

Mr. Todd discussed the status of committee and how to proceed based on statements from individuals who are interested in the proposed rule.

Discussion followed.

Mr. Rimes stated again that the board is going to need to have a way respond to interested parties about this issue and he thinks it should be done by motion.

Mr. Harris stated that the board cannot continue with the withdrawn rule or the committee based on the anti-trust issues and he would not be able to advise the board to proceed with it or to defend any further action with this rule.

Upon motion by Mr. Fiorillo, seconded by Mr. Dove, to discontinue the Traffic Engineering Committee and allow Mr. Harris to respond to any complaints or concerns with this action, the motion passed.

#11. Test Equivalency Review Special Committee **(immediately following the FBPE Joint Engineer/Architect Task Force Committee Meeting on February 10, 2016)**

(Michelle Roddenberry, Ph.D., P.E., Chair; John Pepper, P.E., S.I.; Babu Varghese, P.E., S.I.)

(a) Committee Chair's Report.

Dr. Roddenberry discussed the issue and stated that the committee met earlier in the day to discuss the proposal that was provided by Mr. McCabe.

Dr. Roddenberry stated that the committee's recommendation to the Board is that the proposal does not meet the requirements of the December 2015 motion and that he submit a proposal to the Board for their review and approval that has an examination as part of the process. He may also propose an alternative examination or pass either day of the two day NCEES SE Examination.

Upon motion by Dr. Roddenberry, seconded by Mr. Fiorillo, to accept the recommendation of the committee, the motion passed.

H. NCEES

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

I. Advisory Attorney's Report

#1. Anti-Trust Presentation by Mr. Ed Tellechea, Chief Assistant Attorney General – **TIME CERTAIN of 1:30pm**

Mr. Tellechea and Ms. Brady gave a presentation about anti-trust and how it is could affect all regulatory boards in the future.

#2. 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.

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

#2. FES

Item taken out of order.

Mr. Harris stated that Mr. Hillman submitted a Special Inspector Application and his application was denied and due to a mix up, Mr. Hillman thought he was on the agenda for

an informal hearing but he was not on the agenda. Mr. Harris stated that due to the mix up and the fact that Mr. Hillman travelled to the meeting, Mr. Hillman should be given the opportunity to address the Board regarding reconsideration of the application review committee's decision.

Mr. Hillman addressed the Board on his Special Inspector application and the denial of his application.

Discussion followed on Mr. Hillman's application.

The matter was tabled so that Mr. Hillman could provide additional materials in support of his application.

M. Chair's Report

#1. Appoint FBPE Committees for 2016

Mr. Bracken appointed Mr. Fleming to the Probable Cause Panel with Mr. Fiorillo.

Mr. Bracken eliminated the following committees: Education Rules, Practicing Engineer and the Structural Rules Committee.

N. Action Items from Previous Board Meetings

#1. Email from Ms. Carol Hays, PE – Re: Clarification of Fl. Statute 471.017

#2. Email from Ms. Jeanne Lundy Clarke, PE, SI – Re: Advanced Building Code Course Requirement

#3. Email from Mr. Ernesto Polo, PE – Re: Request for credit to CE Hours

O. Correspondence to the Board

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

Mr. Bracken discussed the email from Mr. Falany. Mr. Bracken will work with staff to draft a response to Mr. Falany.

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

Mr. Bracken discussed the email from Mr. Hampton. Mr. Bracken will work with staff to draft a response to Mr. Hampton.

#3. Email from Mr. John Davis – Re: FBPE Continuing Education

Mr. Bracken discussed the email from Mr. Davis. Mr. Harris stated that he would look into this and bring his response to the April 2016 FBPE Board meeting.

Part II Informal Hearing Agenda (Thursday, February 11, 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, February 10, 2016

The Experience Committee was reconvened, and Ms. Sammons called out each name of application that the Committee reviewed and each committee member stated their recommended action on the application. Upon motion by Mr. Hahn, seconded by Mr. Fiorillo, to accept the recommendations of the committee members, the motion passed. The Experience Committee then adjourned.

Following adjournment of the Experience Committee, the full Board considered the recommendations of the Committee. Thereafter, a motion was made to ratify the actions of the Committee by Mr. Hahn, seconded by Mr. Fiorillo. The motion passed.

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

#1. Jonathan Gentry

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

Mr. Harris outlined the basis of the denial of Mr. Gentry's application. Mr. Gentry holds a BS Civil Engineering from Southern Polytechnic State University. He received the degree 05/2015 and it is ABET accredited. Mr. Gentry does not have the required 48 months of engineering experience from the time of earning the BS in engineering to

present. The denial of the application is experience. Mr. Gentry is lacking 33 months of acceptable engineering experience. Mr. Gentry returned his Election of Rights with a request for an Informal Hearing

Mr. Gentry addressed the Board and talked about his experience.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to approve the application of Mr. Gentry based on his experience, the motion passed.

R. Board Appearance on Application for Principles and Practice Examination

#1. Tedi Derrickson

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

Mr. Harris stated that Ms. Derrickson was asked to appear to before the Board to explain her experience.

Ms. Derrickson addressed the Board.

Discussion followed.

Upon motion by Mr. Hahn, seconded by Mr. Pepper, to approve the application of Ms. Derrickson based on her experience provided in the application and as supported by her testimony at the board meeting, the motion passed.

#2. Yenedy Calle Guerra

Ms. Guerra was present and sworn in prior to addressing the Board. Mr. Ed Bayo translated for Ms. Guerra.

Mr. Harris stated that Ms. Guerra was asked to appear to before the Board to explain her experience.

Ms. Guerra addressed the Board on her education and experience.

Dr. Roddenberry stated that she has a deficiency of chemistry or biology. These would need to be college level courses. (Staff was asked to acquire a course description from Silny for wastewater treatment, water quality, sanitary & storm sewer systems and water treatment for consumption.)

Mr. Harris also stated that her experience is also an issue but the Board needs to act on her application today or she will need to waive the 90 day requirement.

Ms. Guerra waived the 90-day requirement for action on her application.

The Board asked for more information on her experience.

The application for Ms. Guerra was continued until the June 2016 FBPE Board meeting.

S. Hearing on Petition for Waiver and Variance for Special Inspector Application

#1. Adriana Jaegerman

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

Mr. Harris stated that Ms. Jaegerman was here based on her special inspector application and her Petition for Waiver and Variance. Ms. Jaegerman is requesting a waiver based of Rule 61G15-35.003 Qualification Program for Special Inspector, regarding the requirement that relevant experience shall be within seven years preceding the submission of the application. A portion of Ms. Jaegerman's experience was beyond the seven year requirement.

Ms. Jaegerman addressed the Board, including testimony regarding her experience and the number and complexity of the projects she worked on as an inspector and as a supervisor.

Discussion followed on her application and petition.

Mr. Bracken suggested that she submit the information she provided today to staff for the Board to review and to see if this would satisfy their concerns with her application.

Mr. Harris stated that for her to do this then she would need to withdraw her petition but that she has the option to file the petition at a later date.

Ms. Jaegerman withdrew her petition.

T. Hearing on Petition for Waiver and Variance on Rule 61G15-23.003(1)

#1. Julian Irby

Mr. Harris stated that Mr. Irby is requesting a waiver of Rule 61G15-23.003(1) because of medical reasons.

Upon motion by Dr. Roddenberry, seconded by Mr. Todd, the petition for rule waiver was granted with conditions. The conditions included the requirement that Mr. Irby

either personally apply the signature stamp or directly supervise the person applying the stamp for him. The motion passed.

U. Complaint against Continuing Education Provider

#1. EZ-PDH

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

Mr. Harris stated that the EZ-PDH is a Continuing Education Provider and a complaint was filed against them.

Mr. Boesk addressed the Board.

Upon motion by Dr. Roddenberry, seconded by Mr. Pepper, to dismiss the complaint, the motion passed.

Part III
Disciplinary Hearings
(Thursday, February 11, 2016)

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

V. SETTLEMENT STIPULATION

#1. ALBERTO CARDONA, P.E.

P.E. Number: 17138

FEMC Case Number: 2013009998

Probable Cause Panel Date: November 18, 2014

Probable Cause Panel: Roddenberry, Matthews & Pepper

FEMC Case Number: 2014023033

Probable Cause Panel Date: March 10, 2015

Probable Cause Panel: Fiorillo and Matthews

Represented by: Ms. Amie Patty, Esquire

Anderson Law Group

Mr. Bracken recused himself from the case.

Mr. Cardona was present with counsel, Ms. Patty. Mr. Cardona was sworn in prior addressing the Board.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(g), Florida Statutes; and Rule 61G15-19.001(4), – by engaging in negligence in the practice of engineering; Section 471.033(1)(j) – Affixing or permitting to be affixed his or her seal, name, or digital signature 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; Section 471.033(1)(g) and Rule 61G15-19.001(6)(b) and (d), Florida Administrative Code, - by committing misconduct in the practice of engineering and Section 471.033(1)(g), Florida Statutes, and Rule 61G15- 19.001(4), Fla. Admin. Code – by engaging in negligence in the practice of engineering.

The Probable Cause Panel Recommendation for case 2013009998 was Administrative Complaint; Reprimand; Administrative Fine of \$4,000.00 (\$1,000.00 for each Count in the Complaint); Administrative Costs of \$5,110.50; Suspension of Respondent's Professional Engineer License ("PE License") for one (1) year from the date of filing the Final Order with the Agency Clerk with DBPR; Restriction of Respondent's PE License in Structural Engineering until Respondent passes the NCEES Structural Exam and provides proof of passing of the same to the Board; Successfully completing an Engineering Professionalism and Ethics course; Successfully completing 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 Probable Cause Panel Recommendation for case 2014023033 was Administrative Complaint; Reprimand; Administrative Fine of \$5,000.00; Administrative Costs of \$2,246.08; Suspension of Respondent's Professional Engineer License ("PE License") for two (2) years (the 1st year to run concurrent with the Respondent's PE License suspension in FBPE Case #: 2013009998) from the date the Final Order is filed with the DBPR Agency Clerk; Probation for five (5) years from the date the suspension of Respondent's PE License is completed; Project Reviews at six (6) and eighteen (18) month intervals from the date of filing of the Final Order with Agency Clerk; Successful Completion of an Advanced Engineering Professionalism and Ethics course which has been approved by the Florida Board of Professional Engineers ("Board"); 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; Reprimand; Suspension of Respondent's Professional Engineer License ("PE License") for ninety (90) days from the date the Final Order is filed with the DBPR Agency Clerk; Restriction of Respondent's PE License **to the practice of ELECTRICAL ENGINEERING**; Administrative Fine of \$6,000.00 paid to the Board within either one (1) year or (2) years from the date that the Final Order is filed with the Agency Clerk; Administrative Costs of \$7,346.058 (\$5,110.50 for

FEMC Case #: 2013009998 and \$2,246.08 for FEMC Case #: 2014023033); Probation for two (2) years from the date the suspension of Respondent's PE License is completed; Project Reviews at nine (9) and twenty-one (21) month intervals from the date of filing of the Final Order with Agency Clerk; Successful Completion of an Advanced Engineering Professionalism and Ethics course which has been approved by the Florida Board of Professional Engineers ("Board"); Successful completion 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.

Ms. Patty addressed the Board.

Mr. Cardona addressed the Board.

Discussion followed.

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

#2. MARK A. DE STEFANO, P.E.
P.E. Number: 61657
FEMC Case Number:
Probable Cause Panel Date:
Probable Cause Panel:
Represented by:

FBPE
2014031178
July 14, 2015
Fiorillo, Matthews & Todd
Himself: Mark A. de Stefano, P.E.
De Stefano Engineering Group, LLC
FLORIDA BOARD OF
PROFESSIONAL ENGINEERS

Mr. De Stefano 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)(g), Florida Statutes, & Rule 61G15-19.001(4), Fla. Admin. Code, by engaging in negligence in the practice of engineering.

The Probable Cause Panel Recommendation was Administrative Complaint; Reprimand, Administrative Fine of \$1,000.00; Administrative Costs of \$891.80; Successful Completion of a Basic 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 Panel Recommendation.

Mr. De Stefano addressed the Board.

Discussion followed.

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

#3. RAM GOEL, P.E.

P.E. Number: 47431

FEMC Case Number: 2013029125

Probable Cause Panel Date: July 14, 2015

Probable Cause Panel: Fiorillo, Matthews & Pepper

FEMC Case Number: 2014045758

Probable Cause Panel Date: July 14, 2015

Probable Cause Panel: Fiorillo, Matthews & Pepper

Represented by: Ms. Meredith A. Freeman, Esquire

Bush Ross, P.A.

Mr. Goel was present with counsel, Ms. Freeman. Mr. Goel sworn in prior to addressing the Board.

Mr. Rimes outlined the facts of both cases. The charges relate to a violation of §471.033(1)(g), FS: Engaging in fraud or deceit, negligence, incompetence, or misconduct, in the practice of engineering and §471.033(1)(g), FS: Engaging in fraud or deceit, negligence, incompetence or misconduct, in the practice of engineering. §471.033(1)(j), FS: Affixing or permitting to be affixed his or her seal, name or digital signature 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 for Case 2014045758 was Administrative Complaint; Reprimand, Administrative Fine of \$5,000.00 (\$1,000.00 per Count in Administrative Complaint); Administrative Costs of \$7,853.40; Suspension of Professional Engineer License for one (1) year from the date the Final Order is filed with the Department of Business and Professional Regulation ("Agency") Clerk; Project/Plan Reviews of Geotechnical Engineering at 6 and 18 month intervals after suspension has been completed and during the probationary period; Successful Completion of a Basic 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 Probable Cause Panel Recommendation for Case 2013029125 was Administrative Complaint; Reprimand, Administrative Fine of \$4,000.00 (\$1,000.00 per Count in Administrative Complaint); Administrative Costs of \$9,135.00; Probation for 2 years from the date of filing the Final Order with the Department of Business and Professional Regulation ("Agency") Clerk; Project/Plan Reviews with the disciplines of Structural, Electrical, and Mechanical being reviewed at 6 and 18 month intervals from the date of filing of the Final Order with Agency Clerk; Successful Completion of a Basic 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 RESOLVES BOTH CASE OPEN AGAINST RAM GOEL'S PROFESSIONAL ENGINEER LICENSE - CASE NUMBERS: 2013029125 and 2014045758 Administrative Complaint; Reprimand; Administrative Costs of \$16,988.40 (\$7853.40 for FEMC Case #: 2013029125 and \$9,135.00 for FEMC Case #: 2014045758) paid to the Board within sixty (60) days from the date that the Final Order is filed with the Agency Clerk; Respondent's license shall be RESTRICTED from creating, producing, or certifying any engineering documents relating to sinkhole investigation or remediation or any other form of geotechnical engineering until such time as Respondent takes and passes the NCEES Geotechnical Engineering examination. Notwithstanding the foregoing, Respondent shall not be prohibited from performing environmental assessment and remediation activities related to pollution of soil and groundwater. Subsequent to taking and passing the NCEES Geotechnical Examination, Respondent shall submit to the Board a detailed list of all completed Geotechnical Engineering projects (signed, sealed, and dated), by the Respondent for PROJECT REVIEW at six (6) and eighteen (18) month intervals from the date on which Respondent passes the examination. The projects shall include: all Geotechnical Engineering projects and reports signed and sealed by Respondent. In ADDITION to the project reviews addressing geotechnical work (which only attach after Respondent takes and passes the NCEES Examination in that field), Respondent shall be subject to PROJECT REVIEWS over two (2) years covering all of Respondent's other engineering work. The two (2) years, during which the project review will occur, begins the date of the Final Order adopting this Stipulation is filed with the Agency Clerk, after which Respondent shall submit to the Board a detailed list of all completed Structural, Electrical/Mechanical Engineering projects (signed, sealed, and dated), by the Respondent for PROJECTS REVIEWS at six (6) and eighteen (18) month intervals from the date of the issuance of the Final Order. The projects shall include: all Structural, Electrical/Mechanical Engineering projects and reports signed and sealed by Respondent; Successful Completion of an Advanced Engineering Professionalism and Ethics course which has been approved by the Florida Board of Professional Engineers ("Board"); Successful completion 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.

Ms. Freeman addressed the Board.

Mr. Goel addressed the Board.

Discussion followed.

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

W. VOLUNTARY RELINQUISHMENT

#4. James C. Tippens, P.E.
P.E. Number: 12217
FEMC Case Number: 2015023157, 2015054097, 2016002187
Probable Cause Panel Date: September 15, 2015
Probable Cause Panel: Fiorillo, Matthews & Pepper
Represented by: Himself: James Tippens, P.E.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of § 471.033(1)(g), FS: Engaging in...incompetence...in the practice of engineering. Rule 61G15-19.001(5), FAC: A professional engineer shall not be incompetent to practice engineering. In competence in the practice of engineering as set forth in Section 471.033(1)(g), F.S., shall mean the physical or mental incapacity or inability of a professional engineer to perform the duties normally required of the professional engineer.

Mr. Rimes discussed the case.

The Probable Cause Panel met on January 16, 2016 in an emergency meeting and concurred with the acceptance of voluntarily relinquishment of Mr. Tippens' PE license.

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

Upon motion by Mr. Todd, seconded by Ms. Boza, to accept the voluntary relinquishment, the motion passed.

X. INFORMAL HEARING

#5. OLIVER J. TURZAK, P.E.

P.E. Number: 18230
FEMC Case Number: 2015034920
Probable Cause Panel Date: September 15, 2015
Probable Cause Panel: Fiorillo, Matthews & Pepper
Represented by: Himself: Oliver J. Turzak, P.E.

Mr. Turzak was present and sworn in prior addressing the Board.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(k), Florida Statutes: Violating any order of the board or department previously entered in a disciplinary hearing.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to accept the findings of facts of the board, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, that these facts do constitute a violation of the practice act, the motion passed.

Mr. Turzak addressed the Board.

Upon motion by Mr. Dove, seconded by Mr. Hahn, that the conclusions of law contained in the Administrative Complaint are adopted as the Board's conclusions of law, the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Dove, that the complete file as presented be accepted into evidence for purposes of determining penalty, the motion passed.

Upon motion by Mr. Hahn, seconded by Mr. Todd, to revoke the license of Mr. Turzak, the motion passed. Mr. Fleming opposed.

Upon motion by Mr. Hahn, seconded by Mr. Dove, to deny the motion to tax costs, the motion passed.

#6. JOSHUA M. HAKKEN
P.E. Number: NONE
FEMC Case Number: 2014049993
Probable Cause Panel Date: July 14, 2015
Probable Cause Panel: Fiorillo, Matthews & Pepper
Represented by: Himself, Joshua M. Hakken – DC #T86669
Apalachee Correctional Institution
(Mr. Hakken will likely not be present)

Mr. Hahn is also recused from this case.

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1) (c), 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. Section 455.227(1)(t), Florida Statutes: Failing to report in writing a conviction or plea of nolo contendere, a crime in any jurisdiction.

Upon motion by Mr. Dove, seconded by Dr. Roddenberry, that the facts as alleged in the administrative complaint are accepted as the Board's findings of facts, the motion passed.

Upon motion Mr. Dove, seconded by Dr. Roddenberry, that the allegations of law in the administrative complaint are accepted as Board's conclusions of law in this case and constitute a violation of the practice act, the motion passed.

Upon motion by Mr. Dove, seconded by Dr. Roddenberry, that the complete file including the written correspondence by Mr. Hakken be admitted into the record for determining penalty, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Dove, to issue an administrative fine of \$1,000.00 to be paid within two (2) of release from prison and costs of \$121.87, the motion passed.

Y. MOTION FOR DEFAULT

#7. DAVID BOWEN
FEMC Case Number: 2015019772
Probable Cause Panel Date: November 17, 2015
Probable Cause Panel: Fiorillo, Matthews & Pepper
Represented by: Himself: David Bowen,

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.

Upon motion by Dr. Roddenberry, seconded by Mr. Todd, that Mr. Bowen has failed to respond to the administrative complaint and has therefore forfeited his right to elect an administrative hearing involving disputed issues of material fact pursuant to FS 120.569 and 120.57(1), the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, that the allegations of facts in the administrative complaint are accepted as the Board's findings of facts and the allegations of law in the administrative complaint are accepted as Board's conclusion of law in this case, the motion passed.

Upon motion by Dr. Roddenberry, seconded by Mr. Hahn, that the complete file be accepted into the record for determining penalty, the motion passed.

Motion made by Mr. Dove, seconded by Mr. Todd, to issue an Administrative Fine of \$2,500.00; and Administrative Costs of \$168.75. Discussion followed on the cost of the fine and amending it to \$2,500. The motion passed.

Z. Old Business

AA. New Business

BB. Public Forum

CC. Adjourn

