

**Minutes for
The Florida Board of Professional Engineers
February 17, 2021 beginning at 1:00 p.m. or soon thereafter and
February 18, 2021 beginning at 8:30 a.m., or soon thereafter
Via video conference**

Part I – Wednesday, February 17, 2021

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

Mr. Fleming called the meeting to order. Ms. Sammons called roll.

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

Board Members Present:

Kevin Fleming, P.E., Chair
Scott Drury, P.E., Vice Chair
Dylan Albergo, P.E.
Pankaj (PJ) Shah, P.E.
Babu Varghese, P.E., S.I.

Attorney General's Office:

Rachelle Munson, Assistant Attorney General, Counsel to the Board (first day only)
Lawrence Harris, Senior Assistant Attorney General, Counsel to the Board (second day only)

Staff Members Present:

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

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

- Time certain of 1:30pm – Jonathan Batista - item under Board Correspondence (Exhibit O#5)
- Time certain of 1:45pm – Bruce Tumin, P.E. - item under Board Correspondence (Exhibit O#6)

William Lampkin, FBPE Public Information Officer
Wendy Anderson, FBPE/FEMC Investigator
Art Nordlinger, P.E., FEMC Board member
Angelina Fairchild, P.E., FES
Andrew Lovenstein, P.E., FSEA

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. Varghese, seconded by Mr. Albergo, to approve the agenda, the motion passed.

F. Approval of Consent Agenda

Mr. Fleming stated that there is an error on page 31 of the meeting materials showing 17 cases on the agenda and probable cause being found in five.

#1. Minutes from December 10, 2020 FBPE Board Meeting

Approved under consent agenda.

#2. Minutes from January 13, 2021 FBPE Board Meeting

Approved under consent agenda.

#3. Minutes from January 15, 2021 FBPE Multidimensional Electronic Model Task Force Meeting

Approved under consent agenda.

#4. Minutes from January 20, 2021 FBPE Probable Cause Panel Meeting

Approved under consent agenda as amended.

#5. Minutes from January 22, 2021 FBPE Multidimensional Electronic Model Task Force Meeting

Approved under consent agenda.

#6. Application for Retired Status

Approved under consent agenda.

#7. 20-21 2nd Quarter FEMC Report

Approved under consent agenda.

G. Committee Reports

#1. Probable Cause Panel **(Next Meeting: March 10, 2021 at 8:30am)**

(Robert Matthews, P.E., Chair; Kevin Fleming, P.E.; Scott Drury, P.E.) (Alternate Current Board Member: P.J. Shah, P.E.; Alternate Past Board Member: Richard Wohlfarth, P.E.)

(a) Committee Chair's Report.

#2. Applications Review – Experience Committee **(Next Meeting: March 10, 2021 at 1pm via video conference)**

(PJ Shah, P.E., Chair; Dylan Albergo, P.E.; Scott Drury, P.E.; Kevin Fleming, P.E.; Babu Varghese, P.E., S.I.)

(a) Committee Chair's Report.

#3. Applications Review – Education Committee **(Next Meeting: March 10, 2021 at 1pm via video conference)**

(Babu Varghese, P.E., S.I., Chair; Scott Drury, P.E.; PJ Shah, P.E.)

(a) Committee Chair's Report.

#4. Rules Committee **(Next Meeting: March 10, 2021 at 1pm via video conference)**

(Kevin Fleming, P.E., Chair; Dylan Albergo, P.E.; Babu Varghese, P.E., S.I.)

(a) Committee Chair's Report.

#5. Mechanical Rules Committee **(Next Meeting: TBD)**

(Scott Drury, P.E., Chair; Kevin Fleming, P.E.; Babu Varghese, P.E., S.I.)

(Public Advisors: Warren Hahn, P.E., Joe Limpert, P.E.)

(a) Committee Chair's Report.

#6. Multidimensional Electronic Model Task Force **(Next Meeting: TBD)**

(FBPE Board Members: Dylan Albergo, P.E.; Scott Drury, P.E.; PJ Shah, P.E.)

(Public Advisors: Vern Danforth; Will Sharp; Mo Harmon; Anath Prasad;

William Bracken, P.E., S.I.; Steve Stanfill; Mark Lemieux; Dylan Richard; Casey Sveiven; Nick Benedico)

(a) Committee Chair's Report.

#7. Joint FBPE-FEMC Committee **(Next Meeting: TBD)**

(FBPE Board Members: Kevin Fleming, P.E.; Dylan Albergo, P.E.)

(FEMC Board Members: Barney Bishop, Committee Chair, Public Member; John Stewart, Public Member)

H. NCEES

(Kevin Fleming, P.E., FBPE Liaison)

#1. 2021 NCEES Southern Zone Meeting – April 15, 2021 at 10am to 1pm- being held virtually

- Welcome Event will be held on April 14 – time to be determined

I. Advisory Attorney's Report

#1. Rules Report

Ms. Munson presented the rules report for the board's review and consideration.

#2. Public Hearing on Rule 61G15-Chapter 34

Ms. Munson reviewed the proposed rule amendments. Discussion followed.

Mr. Drury stated that everything after "plumbing equipment" in the first sentence in 34.007 (4)(b) be deleted.

Upon motion by Mr. Drury, seconded by Mr. Shah, to reopen 61G15-Chapter 34 and accept the proposed rule amendments as amended, the motion passed.

#3. Public Hearing on Rule 61G15-Chapter 19 – Disciplinary Guidelines

Ms. Munson explained the proposed rule changes. Discussion followed.

This item was sent back to the Rules Committee for further review.

#4. Public Hearing on Rule 61G15-18.011

Ms. Munson explained the proposed rule changes. Discussion followed.

Upon motion by Mr. Albergo, seconded by Mr. Varghese, to accept the proposed rule amendments as presented, the motion passed.

#5. Public Hearing on Rule 61G15-23.001 – new language from the FBPE Multidimensional Electronic Model Task Force

Mr. Fleming discussed the proposed changes and why the language was proposed.

Upon motion by Mr. Varghese, seconded by Mr. Drury, to open the rule for development, the motion passed.

Ms. Munson explained the proposed rule language. Discussion followed.

Upon motion by Mr. Shah, seconded by Mr. Varghese, to accept the proposed rule language as presented, the motion passed.

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

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

#6. Review of Draft of Declaratory Statement for JS Held

Ms. Munson explained the proposed statement. Discussion followed.

Upon motion by Mr. Albergo, seconded by Mr. Drury, to accept the declaratory statement as presented, the motion passed.

J. Executive Director's Report

#1. Renewal Update

Ms. Raybon gave an update on renewal. Discussion followed.

#2. Legislative Update

Ms. Raybon discussed the legislative bills that may have an impact on FEMC/FBPE. The board asked to have the bills sent to them for their review.

#3. Memo from Legal about CE Provider @Home Prep

Ms. Raybon discussed the course and the consultant's review. Discussion followed.

Staff was directed to send the provider a letter asking them to either remove the course or update it and that another complaint could cause them to lose their status as a CE provider.

#4. Application for FEMC Board Member

Ms. Raybon discussed the application and how the board has handled applications in the past.

Upon motion by Mr. Drury, seconded by Mr. Varghese, to appoint Dr. Tumeo, P.E. as a FEMC Board Member to a term of four years, the motion passed.

#5. Discussion on Advance Building Code Course and when the PE must take the course

Ms. Raybon explained the issue with the deadline for the ABC course to be taken and how some building officials are interpreting this. Discussion followed.

This item was referred to the Rules Committee for review and consideration.

#6. 2021 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.

#3. Non-Compliance Report

Provided for informational purposes.

#4. Open case report

Provided for informational purposes.

L. Engineering Association and Society Reports

#1. FSEA

#2. FES

#3. IEEE

#4. ASCE

M. Chair's Report

#1. Appoint Committees

Mr. Fleming made the following committee appointments:

Mechanical Rules will remain the same for now but disband after the rules are adopted.

Combine the Education Review Committee and the Experience Review Committee-Mr. Shah will be the chair.

Rules will be Mr. Fleming (chair), Mr. Drury and Mr. Shah

PCP will have two panel (A and B). Mr. Matthews will serve as chair. Mr. Albergo and Mr. Varghese will serve on one panel along and Mr. Pepper and Mr. Hahn will serve on the alternate panel (so an SI will be on each panel).

N. Action Items from Previous Board Meetings

O. Correspondence to the Board

#1. Email from Dr. Stuart Welsh, P.E – Re: Question about NTSB Recommendation

Mr. Fleming discussed the email. Discussion followed. Mr. Fleming stated that he would respond to the email.

#2. Email from Mr. John Simko, P.E. – Re: Building Departments

Mr. Rimes discussed the email and stated that he has responded. No further action required.

#3. Email from Mr. John Simko, P.E. – Re: engineers doing work outside of their expertise

Mr. Fleming discussed the email and discussion followed. Mr. Fleming stated that he will respond after discussions with Mr. Harris and Mr. Rimes.

#4. Email from Mr. Alfonso Fernandez-Fraga, P.E. – RE: Identification of applicable building codes in engineering documents

Mr. Fleming stated the Mr. Fernandez-Fraga is correct and referred this item to the Rules Committee.

#5. Request to Speak by Mr. Jonathan Batista – re: NCEES PE Exam -TIME CERTAIN OF 1:30pm

Mr. Batista addressed the board. Ms. Munson stated that the board is unable to respond to the questions in the meeting materials.

#6. Email/Letter from Mr. Bruce Tumin -TIME CERTAIN OF 1:45pm

Mr. Tumin addressed the board about the rules regarding fire protection. Mr. Tumin asked the board to send a letter to the governor demanding that the governor appoint engineers to the FBPE board as required by statute.

Mr. Fleming stated that the board will look into the rules. Ms. Raybon stated that she has contacted the governor's office several times about board appointments.

#7. Email from Mr. Hoffman, P.E. – re: extending the Emergency Signing and Sealing Rule

Mr. Rimes stated that staff keeps getting inquiries about extending the emergency rule and staff responds that the rule has expired, and the board has not decided if the emergency rule should be permanent. Discussion followed. The board took no action on this item.

#8. Email about GreenBook Committee – re: CEU Credit during renewal

Ms. Raybon discussed the email and further discussion followed. Staff was directed to respond based on the statute, which only allows four CE hours.

This item was referred to the Rules Committee for review and consideration.

P. Public Forum

Q. Community Involvement

Part II
Informal Hearing Agenda
(Thursday, February 18, 2021)

R. Ratification of Actions from Application Review, February 17, 2021

Ms. Sammons stated that the #12 should be amended to add that the applicant lacks a science.

Upon motion by Mr. Albergo, seconded by Mr. Shah, to approve the list as amended, the motion.

Upon motion by Mr. Albergo, seconded by Mr. Shah, to delegate authority to staff to review applications that have been issued a notice of intent to deny and the applicant supplements their application, and the supplemental material would clear the deficiency, the motion passed.

S. Informal Hearing on Application for Licensure by Endorsement

#1. Philip Swanton

Mr. Swanton was present and sworn in prior to addressing the board. Mr. Harris explained the basis of the denial. Mr. Swanton's application was denied based on lacking 1.6 hours of general education, but he may qualify for 15/20 based on his years of licensure and experience.

Mr. Swanton addressed the board. Discussion followed.

Upon motion by Mr. Varghese, seconded by Mr. Shah, to vacate the notice of intent to deny and approve the application of Mr. Swanton, the motion passed.

T. Board Appearance on Application for Licensure by Endorsement

#1. Fady Habel

Mr. Habel was present by phone. Mr. Habel holds a BS in Mechanical Engineering from Arab Academy for Science, Technology and Maritime Transport and an MS in Mechanical Engineering from New Jersey Institute of Technology. The committee requested a board appearance to discuss his experience. Mr. Fleming explained why an appearance was requested.

Mr. Habel addressed the board. Discussion followed.

Upon motion by Mr. Varghese, seconded by Mr. Albergo, to approve the application of Mr. Habel on the condition that he provides the supplemental information as requested, including new references and updated work history, the motion passed.

U. Continuation of Informal Hearing Application for Special Inspector Certification

#1. Nestor Cueto

Mr. Cueto was present and sworn in prior to addressing the board. Mr. Harris explained the basis for the denial. Mr. Cueto's application was denied based on excessive time and overlapping months (one project was used for both design and inspection). An informal hearing was held on 12/10/2020 and continued to allow Mr. Cueto to provide additional documents.

Mr. Cueto addressed the board. Discussion followed.

Upon motion by Mr. Varghese, seconded by Mr. Shah, to vacate the notice of intent to deny and approve the application, the motion passed.

V. Hearing on Petition on Waiver and Variance of Rule 61G15-22.0002 – Licensure Change of Status, Reactivation, Reinstatement of Void Licenses

#1. Carlos Zerpa

Mr. Zerpa was present. Mr. Harris explained the basis for the petition.

Mr. Zerpa addressed the board.

Upon motion by Mr. Varghese, seconded by Mr. Drury, to approve the petition of Mr. Zerpa, the motion passed.

#2. Salah Ezzaoudi

Mr. Harris explained the facts of the petition.

Upon motion by Mr. Albergo, seconded by Mr. Shah, to approve the petition of Ms. Ezzaoudi, the motion passed.

Part III
Disciplinary Hearings
(Thursday, February 18, 2021)

W. Settlement Stipulation

#1. Mueller, Todd, P.E. (CE Case)

P.E. Number: 72107
FEMC Case Number: 2020002305
Probable Cause Panel Date: September 09, 2020
Probable Cause Panel: Matthews, Fleming & Drury

Mr. Mueller 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)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

The Probable Cause Panel recommendation was amended administrative complaint, administrative fine of \$ 500.00, administrative costs of \$70.20, Auburn Univ professional and ethics course, and successful completion of the board's study guide.

The Settlement Stipulation is the same as the PCP recommendation.

Upon motion by Mr. Albergo, seconded by Mr. Shah, to accept the settlement stipulation, the motion passed.

#2. Nagamia, Jamal, P.E.

P.E. Number: 19241
FEMC Case Number: 2019041047
Probable Cause Panel Date: September 09, 2020
Probable Cause Panel: Matthews, Fleming & Drury
Represented by: Matthew Davis, Esq.

Mr. Nagamia was present along with counsel, Mr. Davis. Mr. Nagamia was sworn in prior to addressing the board. Mr. Rimes outlined the facts of the cases. The charges relate to violation of Section 471.033(1)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in

the practice of engineering. struct

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$ 10,000.00 (\$2,500.00 per count, administrative costs of \$13,939.30, reprimand, appearance before the Board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, restriction from structural engineering until passage of the NCEES 16-hr structural exam, 2 years' probation, successful completion of the board-approved intermediate engineering professionalism and ethics course, project/plan reviews on MEP at 6 and 18-month intervals, and successful completion of the board's study guide.

The Settlement Stipulation is an administrative complaint, administrative fine of \$2,000.00 (\$500.00 per count), administrative costs of \$13,939.30, reprimand, appearance before the board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, restriction from structural engineering until passage of the NCEES 16-hr structural exam, 2 years' probation, successful completion of the board-approved intermediate engineering professionalism and ethics course, project/plan reviews on MEP at 6 and 18-month intervals, and successful completion of the board's study guide.

Mr. Davis addressed the board. Discussion followed.

Upon motion by Mr. Drury, seconded by Mr. Varghese, the accept the settlement stipulation, the motion passed.

#3. Schneider, Daryl, P.E. (CE Case)

P.E. Number: 76164
FEMC Case Number: 2020007409
Probable Cause Panel Date: July 09, 2020
Probable Cause Panel: Matthews, Fleming & Drury

Mr. Rimes outlined the facts of the case. The charges relate to a violation of Section 471.033(1)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$500.00, administrative costs of \$66.30, and successful completion of the board's study guide.

The Settlement Stipulation is the same as the PCP recommendation.

Upon motion by Mr. Albergo, seconded by Mr. Shah, the accept the settlement stipulation,

the motion passed.

#4. Unroe, Darcy, P.E.

P.E. Number: 60929
FEMC Case Number: 2019052377
Probable Cause Panel Date: May 13, 2020
Probable Cause Panel: Matthews, Fleming & Drury
Represented by: Jeff Peters, Esq.

Mr. Unroe was present along with counsel, Mr. Peters. Mr. Unroe 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)(g), F.S., & Rule 61G15-19.001(4) by engaging in negligence in the practice of engineering.

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$1,000.00, administrative costs of \$3,376.20, reprimand, appearance before the board to discuss how this situation occurred, what improvements and quality control measures will be implemented to prevent this circumstance from occurring in the future, successful completion of the board-approved basic engineering professionalism and ethics course, and successful completion of the board's study guide.

Mr. Peters addressed the board.

Mr. Unroe addressed the board.

Upon motion by Mr. Albergo, seconded by Mr. Shah, the accept the settlement stipulation, the motion passed.

X. Informal Hearing

#5. McCarthy, John, P.E. (CE Case)

P.E. Number: 84038
FEMC Case Number: 2020006278
Probable Cause Panel Date: September 09, 2020
Probable Cause Panel: Matthews, Fleming & Drury

Mr. McCarthy 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)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Probable Cause was found on September 09, 2020 on the issue of respondent. An administrative complaint was authorized and filed on September 22, 2020. A signed

election of rights requesting an informal hearing was returned to the FBPE office on October 15, 2020.

The Probable Cause Panel recommendation was an administrative complaint, administrative fine of \$500.00, administrative costs of \$85.80, and successful completion of the board's study guide.

Upon motion by Mr. Albergo, seconded by Mr. Shah, that the respondent was properly served with the administrative complaint and filed an election of rights electing a Chapter 120.57(2) hearing not involving disputed issue of material facts to convene such hearing, to accept the Statement of Undisputed Material Facts presented as the Board's findings of fact, to accept the entire investigative file of the case including the supplemental materials into evidence, to adopt the allegations in the administrative complaint as the Board's conclusions of law, and to find a violation of the practice act upon which discipline may be imposed, the motion passed.

Mr. McCarthy addressed the board.

Upon motion by Mr. Shah, seconded by Mr. Albergo, to reduce the penalty to an administrative complaint, complete the Auburn Univ professionalism and ethics course, costs, and successful completion of the board's study guide, the motion passed. All items are to be completed with one year.

#6. Mukherji, Sisir K., P.E. (CE Case)

P.E. Number:	73373
FEMC Case Number:	2020006528
Probable Cause Panel Date:	May 13, 2020
Probable Cause Panel:	Matthews, Fleming & Drury

Mr. Mukherji 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)(a), F.S.: Violating ... any other provision of this chapter or rule of the board or department. Rule 61G15-19.001(6)(s), F.A.C.: Renewing or reactivating a license without completion of Continuing Education (CE) hours.

Probable Cause was found on May 13, 2020 on the issue of respondent. An administrative complaint was authorized and filed on May 26, 2020. A signed election of rights was returned to the FBPE office on June 25, 2020.

The Probable Cause Panel recommendation was an administrative complaint, administrative Fine of \$1,000.00, administrative costs of \$58.50, reprimand, and successful completion of the board's study guide.

Upon motion by Mr. Albergo, seconded by Mr. Shah, that the respondent was properly served with the administrative complaint and filed an election of rights electing a Chapter 120.57(2) hearing not involving disputed issue of material facts to convene such hearing, to accept the Statement of Undisputed Material Facts presented as the Board's findings of fact, to accept the entire investigative file of the case including the supplemental materials into evidence, to adopt the allegations in the administrative complaint as the Board's conclusions of law, and to find a violation of the practice act upon which discipline may be imposed, the motion passed.

Mr. Mukherji addressed the board.

Upon motion by Mr. Albergo, seconded by Mr. Shah, to reduce the penalty to an administrative complaint, complete the Auburn Univ professionalism and ethics course, costs, and successful completion of the board's study guide, the motion passed. All items are to be completed with one year.

Y. Mandatory Board Meeting

#7. Barnett, Winthrop, P.E.

P.E. Number:	25576
FEMC Case Number:	2019012309
Probable Cause Panel Date:	May 07, 2019
Probable Cause Panel:	Matthews, Drury & Albergo
Represented by:	Self
Final Order Date:	February 27, 2020

Mr. Rimes stated that Mr. Barnett was required to be in attendance. Mr. Barnett was not on video and Mr. Fleming asked him several questions to which there was no response. Mr. Rimes was asked to let Mr. Barnett know that this meeting would not count as one of his mandatory meetings and that in the future he needs to be on video while attending the board meeting.

Z. Old Business

AA. New Business

BB. Adjourn

Next Board Meeting: April 7-8, 2021 via video conference

Board Member Training: March 23, 2021 at 1pm via video conference