

**MINUTES OF THE
NORTH CAROLINA CODE OFFICIALS QUALIFICATION BOARD**

March 15, 2016

A special meeting of the NC Code Officials Qualification Board was held at 1:00 P.M. on Tuesday, March 15, 2016 at the Board's office at 322 Chapanoke Road in Raleigh, NC.

The following members of the NC Code Officials Qualification Board were present:

Hayden Lutterloh	Richard Ducker	Ray Rice	Stephen Terry
Bill Thunberg	Dan Brummitt	Ken Stafford	Jerry Jones
Mark Hicks	Chris Raynor	Richard Morris	Mack Summey

Members absent:

Taher Abu-Lebdeh	Allen Kelly	Harry Schrum
Andy Matthews	Chris Nuckolls	Chris Noles
Brenda Lyerly		

*note: The appointment role of Elected Official, County < 40,000 pop is vacant.

Others in attendance were as follows:

<u>Name</u>	<u>Affiliation</u>	<u>Location</u>
Kathy Williams	Department of Insurance	Raleigh, NC
Robert Croom	Department of Justice	Raleigh, NC
Tim Morrison	Department of Insurance	Raleigh, NC
David W. Boone	Department of Justice	Raleigh, NC
LaShawn S. Piquant	Department of Justice	Raleigh, NC
Anthony Klish	Klish and Eldreth PLLC	Raleigh, NC
Chris Noles	Department of Insurance	Raleigh, NC

Preliminary Matters

Chairman Hayden Lutterloh presided over the meeting and welcomed guests.

Item 1.A.: Roll Call/Conflict of Interest Reminder

Chairman Lutterloh asked each member of the Board to introduce themselves for the roll call. Chairman Lutterloh asked each member of the Board to state whether they had actual or potential conflicts of interest that needed to be made known for any items on the agenda. Ray Rice requested to be recused from the Noles investigation. Richard Ducker asked Chairman Lutterloh for Mr. Croom to provide what conflict of interest involves in general. Mr. Croom stated that a conflict of interest typically involves a financial stake in the issue or something that may impair judgement. Chairman Lutterloh replied that he had contacted Ms. Carpenter with the Board of Ethics regarding conflict of interest. She stated that there are potential conflicts of interest for all members on the Board, but in this particular case, unless an individual is unable to impartially act, they should be able to participate in this decision.

Richard Morris made a motion to recuse Ray Rice. Stephen Terry seconded the motion. The motion was voted on and approved unanimously.

Item 2: Consideration of Issuance of a Standard Certificate to Inspector(s) who's Probationary Certificate will expire or has expired between the January 26, 2016 regular meeting and the April 26, 2016 regular quarterly meeting of the Board, which will leave the Inspector with no valid Certification.

The names of nine individuals who have passed the state exams but have lost the ability to perform inspections in one or more trades are listed below:

Building Level I

Oxentine, Darin Charles

Electrical Level I

McKinney, Charles Neil

Plumbing Level I

Gay, Willie Lee

Myers, Joshua Ronald

Fire Level I

Baker, Stephen Phillip

Boyd, Joshua Michael

Hassell, Joshua Edward

Lapish, Dana Eugene

Merritt, James Thomas

Jerry Jones made a motion to issue standard certificates to the nine individuals presented. Ray Rice seconded the motion. The motion was voted on and approved unanimously.

Item 3: Presentation of the Office of Administrative Hearing (OAH), Administrative Law Judge's "Proposal for Decision" in NCCOQB v. Noles, 15 INS 06682.

Chairman Lutterloh asked Mr. Croom to make the introduction of the presentation of the Administrative Law Judge's "Proposal for Decision" in NCCOQB v. Noles, 15 INS 06682. Croom introduced Mr. David Boone and Ms. LaShawn Piquant of the NC Department of Justice on behalf of the NC Code Officials Qualification Board and Mr. Anthony Klish on behalf of Mr. Chris Noles.

Chairman Lutterloh called on Mr. Boone for the presentation of the proposal for decision. Boone discussed the function of the Office of Administrative Hearings and its process in regard to administrative law and personnel matters. After the Board determined it would send the matter to the Office of Administrative Hearings, Boone discussed with Chairman Lutterloh to determine whether or not they should proceed with trying to reach a negotiated agreement with Mr. Klish. Chairman Lutterloh referred Boone to review other proceedings of the NC Code Officials Qualification Board to determine if there were other similar cases. Boone reviewed other cases and settlements that he considered similar enough to be used as a basis in this case. However, all cases reviewed involved inspectors performing inspections for a third party. In Mr. Noles' case, he was the owner. Based on the review of other cases, it was agreed that a letter of reprimand and retaking the Law and Administration course would be equivalent if not more severe than other cases considered. A proposed settlement agreement was drafted and filed with the office of Administrative Hearings.

Administrative Judge Randolph Ward reviewed the proposed settlement agreement and emailed Boone and Piquant with several questions. Judge Ward wanted to know the context of the case and other details, and scheduled an evidentiary hearing regarding this matter. He wanted to hear evidence and he wanted to know why this case was similar to other cases and if the disciplinary action was inconsistent in relation to other cases heard by the Board. The hearing occurred on November 20, 2015. Mike Hejduk testified as a witness for the Board. Mr. Noles also testified and at the conclusion of the hearing Judge Ward asked that they try to come up with a proposed decision for him. Boone, Piquant and Klish filed the proposed agreement with the Office of Administrative Hearings and the proposed decision from Judge Ward was received on January 29, 2016.

The complainant in the original complaint heard by the Board, Ms. Susan Gentry, filed a motion with the Office of Administrative Hearings to intervene in the proceeding. She also attached with her motion Mr. Brocker's report. Judge Ward addressed this motion in the beginning of the proposal for decision. Boone filed responses regarding the Gentry motion that she was not a proper individual and Judge Ward agreed with the response. Boone reported that Gentry wasn't allowed to intervene.

Boone stated he believed that Judge Ward, through an independent and impartial process, had prepared a settlement which is the correct way to dispose of this matter. It is up to the Board to decide if this decision is correct.

Boone asked the Board to approve Judge Ward's proposal for decision. Croom reported that the Office of Administrative Hearings had forwarded the Administrative hearing file to the Board for review if desired.

Mr. Klish agreed that Boone presented the information correctly. Klish stated Mr. Noles has concerns regarding this complaint. Klish read a message from Mr. Noles. The message stated that he believed the complaints are due to disgruntled employees. The issues didn't involve public safety and that the complaints were frivolous and have attacked him on a personal and professional level, the Board and the system.

Bill Thunberg made the motion to meet in closed session with respect to the certifications of Chris Noles pursuant to GS 143-318.18.6 and to consult with the Board's advising attorney regarding the proposal for decision in the matter of NCCOQB v. Noles pursuant to GS 143.318.11a(3). Ray Rice seconded the motion. The motion was voted on and approved unanimously.

Item 4: Closed Session: Review of "Proposal of Decision" and deliberations regarding the final agency decision in NCCOQB v. Noles, 15 INS 06682.

The Board went into closed session. After the closed session, Chairman Lutterloh resumed the special board meeting. Lutterloh stated that the Board discussed the proposal of decision and had reached a motion. Stafford made a motion to correct a typo on item 4, page 3, line 8 which should read "respondent" rather than "petitioner as a sitting member of the board" and with that correction, the Board approves and adopts the Office of Administrative Hearing Judge's proposal of decision in NCCOQB v. Noles. Chris Raynor seconded the motion. The motion was voted on and approved unanimously.

Chairman Lutterloh asked Mr. Croom to prepare the necessary documents with the correction for execution by the Board.

Adjournment

There being no further business, Chairman Lutterloh adjourned the meeting.

Respectfully submitted,

Kathy Williams,
OSFM Staff

Note: This meeting has been recorded on CD. Anyone desiring copies should contact the NC Department of Insurance, Engineering Division, Qualification Assurance Section, for reproduction costs.