

Minutes
Well Contractors Certification Commission Meeting
November 9, 2010
Raleigh, NC

The regularly scheduled meeting of the Well Contractors Certification Commission was called to order on Tuesday, November 9, 2010 at **10:20 am** at 2728 Capital Blvd, Raleigh, NC, DEH Rm 1A-224, with Chairman John Nykamp presiding. The following persons were in attendance for the meeting.

Commission Members

Thomas Ammons
John Boyette Jr (sworn-in)
Cassandra Champion
Chris Dickey
Benford Graham
Bill Magette
John Nykamp, Chairman
Carl Parsons
Paul Weller (sworn-in)

WCC Staff

Lora McKinney
Andrew Morgan
Joanne Rutkofske

DEH Staff

Ted Lyon
Wilson Mize – On-Site

DWQ Staff

Michael Rogers

Legal Staff

Rufus Allen
Phillip Reynolds

Guests

Bob Davies – Underground Storage Tank (UST)
Mike Hoover – NCSU
Grover Nicholson – Underground Storage Tank (UST)
W. A. Wilkins - Representative

I. Preliminary Matters

Chairman John Nykamp welcomed everyone in attendance and called the meeting to order at 10:20 am. He then read the NC State Government Ethics Act which mandates that the Chairman inquire as to whether any member knows of a known conflict of interest or appearance of conflict with respect to matters before the Commission. He said if any member knows of a conflict of interest or appearance of a conflict, please so state at this time. Commissioner Thomas Ammons requesting to be excused when discussion on Aggressive Vapor Fluid Recovery.

(2) Purpose of Well Contractors Certification Commission Reminder: (Article 7A-Well Contractors Certification, G.S. 87-98.3) **Purpose:** It is the purpose of this (Commission) to protect the public health and safety by ensuring the integrity and competence of well contractors, to protect and beneficially develop the groundwater resources of the State, to require the examination of well contractors and the certification of their competency to supervise or conduct well contractor activity, and to establish procedures for the examination and certification of well contractors.

(3) Presentation of Service Plaque to Benford Graham by Chairman John Nykamp thanking him for his years of service.

(4) Statement of Economic Interest read by Chairman John Nykamp for Paul Weller informing him that all public servants are mandated to attend an ethics education presentation. The State Ethics Commission was in receipt of Paul Weller's statement and did not find an actual conflict of interest or the potential for a conflict of interest.

(5) Paul Weller was sworn-in by Representative W. A. Wilkins.

(6) Presentation of Service Plaque to Bill Magette by Chairman John Nykamp thanking him for his years of service.

(7) Statement of Economic Interest read by Chairman John Nykamp for John Boyette Jr., informing him that all public servants are mandated to attend an ethics education presentation. The State Ethics Commission was in receipt of John Boyette Jr., statement and did not find an actual conflict of interest or the potential for a conflict of interest.

(8) John Boyette Jr., was sworn-in by Representative W. A. Wilkins.

(9) The Commission reviewed the August 10, 2010 meeting minutes. Commissioner Thomas Ammons made a motion that minutes be approved. Commissioner Casey Champion made a second to the motion. A vote was taken and the motion passed unanimously.

(10) Notation of Any Revisions or Additions to the Agenda – Add topic of Committee Appointments.

II. Action Item: Chap. 27 Rulemaking (.0201 changes)

Phillip Reynolds recommended that Section .0201 stay as is, don't make any changes, reject proposed changes. Commissioner Chris Dickey made a motion to leave Section .0201 the same and not make the proposed changes. This results in temporary certification staying in, so need to leave .0520 alone as well. Commissioner Thomas Ammons made a second to the motion. A vote was taken and the motion passed unanimously.

Action Item: Guidelines for Supervision of Multiple Drill Rigs

Drew Morgan requested clarification on supervision of multiple drill rigs. He suggested that a Well Contractor of appropriate level may supervise no more than two well contractor activities at any given time, no more than one hundred (100) feet apart. Phillip Reynolds recommended that this item be looked into further by the Review Committee. Commissioner Thomas Ammons made a motion to send this issue back to the Review Committee for further review. Commissioner John Boyette made a second to the motion. A vote was taken and the motion passed unanimously.

Action Item: Certification Clarification – Aggressive Vapor Fluid Recovery (AVFR)

Commissioner Thomas Ammons excused himself from this discussion because of a conflict of interest. This presentation was presented by Robert Davies. He stated that AVFR is a variation of what is commonly referred to as dual-phase extraction, vacuum enhanced recovery and soil vapor extraction (SVE) suspend/install “stringer pipes” (PVC pipe), inside well monitoring, create vacuum to pull contaminants and vapor out of vadose zone and groundwater. Robert stated that he does not believe that this activity should be considered a well contractor activity. Commissioner Chris Dickey made a motion that Aggressive Vapor Fluid Recovery not be considered a well contractor activity. Commissioner John Boyette made a second to the motion. A vote was taken and the motion passed.

Action Item: Delegation of Authority to Settle Disciplinary Actions

Dennis Fair's attorney has requested that his petition be considered a request to the Commission for a hearing under Article 3A of the Administrative Procedures Act. Mr. Fair has made a settlement offer, to be considered once the Commission delegates authority to settle disciplinary actions. Phillip Reynolds recommends that WCCC delegated authority to the Disciplinary Committee to settle this case so that full commission not hearing cases, no conflict if heard again later. Commissioner Carl Parsons made a motion to delegate authority to Disciplinary Committee. Commissioner Thomas Ammons made a second to the motion. A vote was taken and the motion passed.

Phillip Reynolds recommended that the petition Dennis Fair submitted to Office of Administrative Hearing be accepted just for this specific case. Commissioner Casey Champions made a motion to accept petition that Dennis Fair has already submitted to OAH. Commissioner Carl Parsons made a second to the motion. A vote was taken and the motion passed.

Action Item: Academy Classes, Funding

Dr. Hoover proposed developing a peer-reviewed Well Drillers Need-to-Know list for establishing the training components and activities necessary to train a new well contractor from “A to Z”, starting with Levels C and D Certification. Funding needed for this proposal would be \$45,000. Purpose: (1) applicants can use to reduce experience requirement (2) certified contractors use for continuing education. Dr. Hoover suggests a 13-15 member advisory committee, create “technical advisory committee,” to assist with developing the material and WCCC staff to call the meetings. Ted Lyons suggested that DEH will help teach courses for this project. Commissioner Thomas Ammons wanted to know the status on the current observatory contract and Dr Hoover stated that he has received a one year extension. Drew Morgan wanted to know, if the pilot program was free or would there be a charge. Commissioner Thomas Ammons made a motion to postpone making a decision for funding this program at this time. Commissioner John Boyette made a second to the motion. A vote was taken and the motion passed unanimously

Action Item: Offer Exams in Spanish

Should the NC Well Contractors Certification offer exams in Spanish? December 8, 2009 motion was passed to keep exams in English only. Commissioner Ammons wanted to know if there were other states that offered Spanish exams. Joanne suggested that some of the outreach material be printed in Spanish. Phillip Reynolds recommended that this action be sent back to the Review Committee for another review. Commissioner Dickey said that exams to be printed in Spanish have already been reviewed and that should be the end of the discussion, but Commissioner Ammons suggested that the State give you information to study your drivers license material in Spanish, so he suggest that the Review Committee should take another look at this proposal. Commissioner Boyette said that this issue came up at the Groundwater Association Meeting and they suggested that they go to an English refresher course. Because Hispanics are currently the fastest growing population in North Carolina, so it is recommended that the Review Committee re-discuss this recommendation. Drew Morgan recommended that the Budget Committee should look at first for the funding purpose and that information be passed on to the Review Committee. Commissioner Chris Dickey made a motion that the Budget Committee look at for funding and pass that information to the Review Committee for further recommendation. Commissioner John Boyette made a second to the motion. A vote was taken and the motion passed unanimously

Action Item: Staff Move Update & Related Funding

Terry Pierce provided Andrew Morgan with a delegation of Authority to perform the civil penalty assessments for violations(s) of G.S. 87-98.4. Terry Pierce informed the commissioners that the large room next to the new staff offices was to become a conference room. Agency head of WCCC is Chairman, currently John Nykamp. Executive Order 70 dealing with rule making may create 3-6 month delay in rulemaking process.

CLOSED SESSION – Commissioner Casey Champion made a motion that Phillip Reynolds send a letter to AC Schultes President regarding his concerns. Commissioner Carl Parsons made a second to the motion. A vote was taken and the motion passed unanimously

Action Item: Terminate All CE Sponsor Agreements

Commissioner Casey Champion suggested termination of all 9 CE Sponsorship Agreements to regain control over approved CE's. Problems have involved attendees getting credit for more time than what they have earned (such as letting out very early), and sponsor not tracking attendees to submit attendance. Staff to notify sponsors of proposed preapproval rule changes now and again in 3 months. Commissioner Thomas Ammons made a motion to allow sponsorship to sunset along with rule changes. Commissioner John Boyette made a second to the motion. A vote was taken and the motion passed unanimously

Action Item: Continuing Education Expectations for Course Providers

“Continuing Education Guidance for Course Providers” and “CE Course Evaluation Form” referred to Review Committee for review. Update and bring back to WCCC for final approval. Commissioner Thomas Ammons made a motion to send the Continuing Education Course Evaluation Form to the Review Committee for updating. Commissioner Casey Champion made a second to the motion. A vote was taken and the motion passed unanimously.

Informational Items: Office of Attorney General Enforcement Update

Nothing to report at this time.

Info Item: MOA with Plumbing Board on HVAC/Geothermal Licensing Requirements

A Memorandum of Agreement has been entered into by the North Carolina Well Contractors Certification Commission and NC State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors regarding HVAC/Geothermal licensing requirements. This memorandum shall apply to all geothermal HVAC installations.

Info Item: Outreach and Enforcement Update

Drew Morgan presented the Outreach and Enforcement report including the exam statistics for August - October examinations. Newly certified were 43.

Info Items: Review Committee Report

The Review Committee report for 9/14/10, 10/6/10 and 11/8/10 was presented by Commissioner Champion. Numerous applications and courses were reviewed and approved.

Info Item: Disciplinary Committee Report

Defendant: Dennis Fair, NCWC 2754-A of Dennis Well & Pump Service. Referred for Disciplinary action by: Holly Coleman, Public Health Director, Chatham County Public Health Department. Action Requested: Revocation. General Notes & Findings of Fact: Previous Disciplinary Meeting 8/11/09. Letter of Reprimand Issued. Left air compressor running on site without supervision to develop well. Threatened the safety of the Chatham County Environmental Health Specialist. Recommendation of Disciplinary Committee Suspension for 120 days based on his grossly negligent or has demonstrated willful disregard of any applicable laws or rules governing well construction.

Info Item: Budget Committee Meeting

Plan 5% reduction in expenditures for SFY 2011 per Governor's mandate. WCCC meeting reimbursement restricted to quarterly meetings. Lake Wheeler Training Facility update: \$264,000 in funds now encumbered budget line item "532199017 Misc-Water Improvmt". Dr. Hoover has requested time extension of contract. WCCC meeting on 8/10/10 made a motion and passed to request 1 year extension of contract.

Info Item: Appointments to Committees & Vice Chair

John Boyette appointed to Disciplinary Committee. Paul Weller appointed to Budget Committee. Commissioner Thomas Ammons made a motion to appoint Chris Dickey as new vice chairman of The Commission. Commissioner Paul Weller made a second to the motion. A vote was taken and the motion passed unanimously.

Info Item: 2011 WCCC Meeting Locations

Looking into moving April 11, Review Committee and Out-of-Cycle Exam and Sept 7 meetings from Archdale Bldg due to parking situation to possibly Wake County Commons Bldg.

Info Item: Ethics Update

Joanne Rutkofske provided the Ethics update tracking list of when each Commissioner must obtain additional Ethics training.

V. Upcoming Meetings

Review Committee Meeting –Mon, 7 Mar 2011 @ 10am, 2728 Capital Blvd., DEH Rm. 1A-117.
Commission meeting will be held Tuesday, May 10, 2011 @ 10 am, 2728 Capital Blvd., DEH Rm. 1A-224.

VI. Closing Remarks

No closing remarks.

VI. Adjournment

With no further business or comments from Commission or Staff, Commissioner Thomas Ammons made a motion for adjournment. Commissioner Paul Weller made a second to the motion. A vote was taken and the motion passed unanimously.
The meeting was adjourned at 3:35 pm.

Respectfully submitted,

Joanne Rutkofske & Lora McKinney
WCCC Staff

Approved by WCCC

John Nykamp, REHS, NCWC
WCCC Chairman

Date