

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
April 24, 2014
COASTLINE CONFERENCE CENTER AND EVENT CENTER
303 Nutt Street
WILMINGTON, NC 28401**

BOARD MEMBER PRESENT

Richard Allen
Bill Booth
Judge Burris
Denise Martin
Ed Cobbler
Bob Graham
Clyde Cook
Marcus Benson
Richard Epley
James Stevens
Eric Weaver Sr.
Robert Clark

BOARD MEMBERS ABSENT

William MacRae

STAFF PRESENT

Terry Wright - Director
Anthony Bonapart - Deputy Director
Phillip Stephenson – Field Services Supervisor
Charles McDarris – Attorney
Judy Pittman - Training Officer
Garcia Graham – PPSB Board Secretary
Maia Washington-Powell – PPSB Licensing Assistant

GUEST PRESENT

David Arndt
Kevin Satterfield
Frederick Stipe
Gregory Hatten
Michael Braggs
Lisa Butler
Pam Mayfield
Stuart Harris
Walter Pylypiw

Kenny Morgan
Sandra Epley
Phil Hyde
Kenneth Roe
Edie Robinson
Bill Dover
Jollette Morrison
Alex Vinson

Randy Harrison
Michael Altilio
Robert Kinard
Charles Gregory
Glenn Burrell
Daphne Barringer
Thomas Lewin
Chris Green

CALL TO ORDER

Chairman Richard Allen called the April 24, 2014 Private Protective Services Board meeting to order at 9:08 a.m. Chairman Allen welcomed all guests.

GOOD OF THE ORDER:

Attorney Charles McDarris explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

Mr. Gregory Hatten, president of the NCAPI greeted the Board and all of the guests. He reported that NCAPI had a successful trip to Washington, D.C. with eleven (11) industry members in attendance. Their annual Fall Conference is scheduled for November 14th and 15th in Cherokee, NC. All information regarding the conference is available on the NCAPI website.

MINUTES:

APPROVAL OF THE FEBRUARY 20, 2014 MEETING MINUTES.

MOTION BY MR. BOOTH TO ACCEPT THE MINUTES; SECONDED BY MR. CLARK; MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. Clark reported that the Screening Committee met on Wednesday, April 23, 2014 from 2:01 p.m. to 3:51 p.m. to review a total of 38 applications. (See report). The committee members were Mr. Clark, Mr. Benson, Mrs. Martin and Mr. Cobbler. Mr. Clark read the report for the record.

Mr. Stevens recused himself from #13 of the screening report.

Mr. Clark presented the following registration report for the period of February 18, 2014 to April 21, 2014. Total registrations 3,575; armed totals were 410 of which 146 were new and 225 were renewals, 1 duplicate, and 38 reissue/dual. There were a total of 133 Armed Armored Car, 29 of which were new, 102 were renewals, 2 reissue/dual. There were a total of 14 Armed Private Investigators, 7 of which were new, 7 were renewals; 3 new Private Investigator Associates, 2 renewals and 1 reissue/dual. Unarmed totals were 2,997 which included 990 new, 1,785 renewals, 58 transfers, 24 duplicates and 140 reissue/dual. There were a total of 18 unarmed armored car, 13 of which were new. Total denials were 675 of which 150 were for cause and 525 for correctable reasons. There were 427 applications approved which were previously denied for a total of 1,102 denials reviewed.

MOTION BY JUDGE BURRIS TO ACCEPT THE SCREENING COMMITTEE REPORT AND THE REGISTRATION REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Chairman Allen reported the Grievance Committee met on Wednesday, April 23, 2014 from 8:02 a.m. until 10:49 a.m. and heard a total of 5 cases. The committee members were Judge Burris, Mr. Booth, Mr. Cook, Mr. Epley, Mr. Graham and Mr. Stevens. Judge Burris presented the attached report. (See attachment).

MOTION BY MR. BOOTH TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. COOK; MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. Stevens advised that the Training & Education Committee met on Thursday, April 24, 2014 from 8:00 a.m. until 9:00 a.m. The committee members were Mr. Stevens, Mr. Allen, Mr. Booth, Mr. Clark, Mr. Epley and Mr. Weaver.

Presently we have 358 certified PPS unarmed guard trainers and 87 PPS certified armed guard trainers.

The following PPS Training Courses for CEU Credits have been scheduled:

April 24, 2014	1pm – 5pm	Wilmington, NC
May 22, 2014	1pm – 5pm	Clemmons, NC (following ASLB meeting)
July 30, 2014	9am – 1pm	Charlotte, NC
August 21, 2014	1pm – 5pm	Asheville, NC
December 11, 2014	1pm – 5pm	Raleigh, NC

The following PPS Training Courses have been completed:

January 27-31, 2014	UAGT Course & Workshop had to be cancelled due to inclement weather
March 10-14, 2014	UAGT Course & Workshop WTCC
March 3, 2014	FT Re-certification & Pre-Qualification Course NCJA
March 31-April 4, 2014	FT Certification Course NCJA

Mr. Stevens reported that additional firearms trainer courses have been scheduled to alleviate the backlog. The courses will possibly be held in Cabarrus County. The committee did not reverse the decision to deny the CEU request from Mr. David Grimes. The committee also decided to return the CEU request from Mr. Frank Bianco for more information. He may resubmit once he provides the instructor biography.

MOTION BY MR. EPLEY TO ACCEPT THE TRAINING AND EDUCATION COMMITTEE REPORT; SECONDED BY MR. BOOTH; MOTION CARRIED.

GRIEVANCE COMMITTEE:

Judge Burris discussed the issue that has arisen from virtual offices versus the traditional branch office and whether there should be a 74C statute requirement. The committee also discussed if staff should be required to inspect offices. Staff will discuss this issue and report back to the Board at the June or August meeting.

The committee also discussed Mr. William Shafer and the issue with a licensed private investigator with an armed endorsement versus a concealed carry. This case also involved licensees wearing a badge or credential for public display and holding oneself out as law enforcement. Chairman Allen asked that staff come up with recommendations to present to the Board. A subcommittee will be formed at that point, if need be.

MOTION BY MR. BENSON TO ACCEPT THE COMMITTEE'S REPORT; SECONDED BY MR. CLARK; MOTION CARRIED.

SCREENING COMMITTEE:

Mr. Phillip Stephenson discussed the current issue with proprietary licensees and executive protection. It was decided that employees may provide executive protection so long as they are properly registered.

MOTION BY MR. BOOTH TO ACCEPT; SECOND BY MR. COOK; MOTION CARRIED.

Proprietary employee is not site specific.

MOTION BY JUDGE BURRIS TO ACCEPT; SECOND BY MR. BENSON; MOTION CARRIED.

BREAK: 10:25 a.m.
BACK IN SESSION: 10:52 a.m.

74C REWRITE COMMITTEE

Mr. Epley reported the wording of House Bill 466 is now going before the senate and contact your respective Senators to stay informed.

MOTION BY MR. CLARK; SECOND BY MR. BENSON; MOTION CARRIED.

FINANCE REPORT:

NONE

ETHICS COMMITTEE:

Mr. Cook reported that if industry members had not filed their SEI report by the April 15th deadline there is a \$250.00 fine for late filing or not filing.

OLD BUSINESS:

Chairman Allen reminded everyone that meetings will now be held at the Holiday Inn on Highwoods Boulevard.

NEW BUSINESS:

Mr. Kenny Morgan from ShowPros Entertainment of Charlotte was present and read a letter previously sent to the board regarding registration of employees. Chairman Allen suggested that the issue be given to the 74C Rewrite Committee for recommendations. He also requested that staff place a copy of the letter in the company file.

FINAL AGENCY DECISION

Attorney Charles McDarris removed himself as counsel to the Board to present the following cases.

The Board received the official record for the following cases:

Samuel T. Harris 13 DOJ 19262 (attachment 6). Mr. Harris was not present. This case was heard by Administrative Law Judge Donald W. Overby on December 17, 2013. This case involved the denial of Petitioner's armed guard registration renewal based on lack of good moral character and temperate habits as evidenced by a conviction of felony Grand Theft Motor Vehicle.

Administrative Law Judge Donald W. Overby proposes that Petitioner be issued an unarmed guard registration.

MOTION BY MR. CLARK TO UPHOLD JUDGE'S DECISION; SECONDED BY MR. BOOTH; MOTION CARRIED.

DIRECTOR'S REPORT:

Deputy Director Anthony Bonapart read the report for the record. The current PPS budget as of March 31, 2014, has a balance of \$928,965.00; the Education Fund balance is \$65,592.05. As of April 21, 2014, the total registrations for PPS is 17,887, 1,788 licensees, and 601 certifications.

Mr. Bonapart reported that there have been a total of 2,766 various correspondences printed from the PPS database, 4,950 registration cards have been printed and a total of 5,582 applications received since the last Board meeting.

MOTION BY MR. GRAHAM TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

ATTORNEY'S REPORT:

Attorney McDarris discussed the following:

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Paul Manley Jr./Show Pros Entertainment Services of Charlotte, Inc. On October 24, 2013 the Private Protective Services Board voted to enter into a consent agreement with Mr. Manley in the amount of \$15,586.40 in twelve monthly installments for registration violations with the first payment due January 1, 2014. The fourth payment was received on April 2, 2014. (\$1,298.86).
2. Brian T. Lassiter/B K Lass Enterprises, Inc. On October 24, 2013 the Private Protective Services Board voted to enter into a consent agreement with Mr. Lassiter in the amount of \$3,610.80 in six monthly installments of \$601.80 for registration violations. The fourth payment was received on April 11, 2014.
3. Felicia Myers/Absolute Contracting Services, Inc. On October 24, 2013 the Private Protective Services Board voted to enter into a consent agreement with Ms. Myers in the amount of \$6,976.80 to be paid in six monthly installments of \$1,162.80 for fifty-seven unarmed guard registration violations with first payment due January 1, 2014. The fourth payment was received on April 1, 2014.
4. Scott Smithers/Eye Spy Investigations. On December 12, 2013, the Private Protective Services Board voted to suspend Mr. Smither's private investigator license for a period of ninety (90) days, but suspend the suspension if he provided his client a written report and then only assess a civil penalty in the amount of \$1,000.00 for failing to offer a written report to a client. The licensee rejected the offer of settlement and requested an administrative hearing. A hearing was held in the Office of Administrative Hearings on February 25, 2014.

II. OFFICE OF ADMINISTRATIVE HEARINGS

February 25, 2014	PPSB	Calvin Jordan	Requested Withdrawal of Petition
October 29, 2013	PPSB	Jesse J. Williamson Alejandro Maurent	Denial of Unarmed Permit Denial of Armed Permit
December 17, 2013	PPSB	Samuel T. Harris	Denial of Armed Permit
January 28, 2014	PPSB	Kelsie Lamel Floyd	Denial of Unarmed Permit
April 29, 2014	PPSB	Kerry Allen Graves	Suspension of license for 90 Days
February 25, 2014	PPSB	Alvin Thomas Bennett	Summary Suspesion of Firearms Registration Permits

III. RULES

1. The rule changes to 12 NCAC 07D.0106, .0501, .0502, .0503, .0504 and .1302 were approved by the Rules Review Commission at its April 17, 2014 meeting. They are effective May 1, 2014.
2. At its October 24, 2013 meeting, the Board approved a proposed rule change to 12 NCAC 07D.0901(e) to delete the provision allowing firearms instructors certified by the Criminal Justice Education and Training Commission to pay only one-half the course fee amount to attend the required portion of the firearms trainer course. The G.S. 150B-19.1 Certification form for this rule change was filed and the Rules Review Commission certified it at its December 19, 2013 meeting. The Notice of Text was filed on January 10, 2014. The Public Hearing was held on February 25, 2014 at 2:00 p.m. at the Board's office. No one attended and no public comment was received. The Public comment Period ended April 14, 2014 and no comments –written or oral—were received.
3. Board staff recently discovered that there are no rules governing “authorized firearms” or “uniforms and equipment” in the recently adopted Unarmed Armored Car Service Guards and Armed Armored Car Service Guard administrative rules (i.e. 12 NCAC 07D Section .1400 and 12 NCAC 07D Section .1500). Arguably, with the new categories, an individual or company could contend the rules governing unarmed and armed security guards in these areas – 12 NCAC 07D.0809 and 12 NCAC 07D .0105 – do not apply to unarmed and armed armored car service guards. It was recommended by staff at the Board's February

20, 2014 meeting that these rules be amended to correct these deficiencies. The Board voted to accept the recommendation. If acceptable, a motion to proceed with the rulemaking process is in order.

4. During discussions regarding implementation of the Board's new on-line application and renewal program, staff also realized that there is no rule regulating the length of time between submission of an application for a license, registration for renewal of a license or registration and the completion of the application process.

The lack of a "cut-off" for the application process will prevent closure of the file in the new system and such applications will otherwise remain open indefinitely. At the Board's February 20, 2014 meeting, Director Wright recommended a rule adoption to address this issue.

5. As previously reported during the 2012 Session of the Legislature, the Joint Legislative Administrative Oversight Committee replaced the Joint Select Regulatory Reform Committee. This Committee has oversight over the study by the Program Evaluation Division (PED) of the structure, organization and operation of all occupational licensing boards in the State as required by Section 10(a) of S.L. 2013-413. At its' December 3, 2013 meeting, the Director of the PED reported to the committee on the status of this study.

It is anticipated that the PED will begin the process of evaluation of the Board in May, 2014, which will commence with a visit to the office and an interview of staff. Its final report on all occupational and professional licensing boards is due to the Administrative Procedures Oversight committee by December 31, 2014.

6. During the 2013 Session of the legislature, the General Assembly passed S.L. 2013-413 (still commonly referred to as "House Bill 74) which amended Chapter 150B of the General Statutes to add a new section, N.C.G.S. § 150B-21.3A, required a periodic review and expiration of existing rules. The review of all rules for all State agencies is anticipated to be a five (5) year process. Administrative rules governing the review process are being adopted by the Rules Review Commission and a chart of the review schedule has recently been released. The Board's rules are scheduled for review in August, 2018.

IV. PENDING CASES

As previously reported, the Plaintiff has refiled the civil action against Board Investigator Sarah Conner, the Board, the city of Charlotte, the Charlotte-Mecklenburg Police Department and various officers of the Charlotte-Mecklenburg PD in *Kelly v. Conner, et al.*, No. 3:13-CV-636—WDNC. Mr. Kelly was unlicensed as a security guard business and unregistered,

but performing security guard and patrol services. He is also a convicted felon. He was arrested and charged with, among other violations, violating Chapter 74C.

The Plaintiff's Attorney has had difficulty serving all parties, and one party failed to answer; this party has now been defaulted and there is "joinder of parties" under the Federal Rules of Civil Procedure. The time for discovery and the filing of motions began to run on April 9, 2014. Attorney Gray has begun preparing, and will soon file a Motion to Dismiss on behalf of the Board. The Attorney General's Office is again representing Ms. Conner.

V. MISCELLANEOUS

At the Board's February 20, 2014 meeting, the board requested that Attorney Gray research and then prepare a Memorandum explaining the difference between employees and independent contractors, or "W-2 employees" vs. "1099 employees."

MOTION BY MR. WEAVER TO ACCEPT ATTORNEY'S REPORT; SECONDED BY JUDGE BURRIS; MOTION CARRIED.

The Board discussed adopting the proposed rule in Attachment 2 of the Attorney's Report.

MOTION BY WEAVER TO MOVE FORWARD WITH RULE ADOPTION; SECONDED BY MR. STEVENS; MOTION CARRIED.

The Board discussed beginning the process regarding uniforms and equipment for Unarmed Armored Car and Armed Armored Car registration in Attachment 3 of the Attorney's Report.

MOTION BY MR. WEAVER TO BEGIN THE PROCESS; SECONDED BY JUDGE BURRIS; MOTION CARRIED.

The suggestion was made that the cutoff period for the application and renewal application process be sixty (60) days.

MOTION BY JUDGE BURRIS TO ACCEPT CUTOFF PERIOD; SECONDED BY MR. WEAVER; MOTION CARRIED.

Judge Burris suggested that a memorandum regarding these changes be made available to the industry by posting on the Board's website.

MOTION BY JUDGE BURRIS TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

PUBLIC COMMENT:

NONE

Mr. Hatten announced that NCAPI will not meet after the board meeting.

MOTION BY MR. BOOTH TO ADJOURN; SECONDED BY MR. BENSON; MOTION CARRIED.

11:30 a.m. Adjourned

Anthony B. Bonapart, Deputy Director

Maia Washington-Powell, Licensing Assistant