



# North Carolina Department of Public Safety

## Private Protective Services Board

Roy Cooper, Governor  
Erik Hooks, Secretary

Pamela Cashwell, Chief Deputy Secretary  
Brian Jones, Director

**MINUTES OF THE  
PRIVATE PROTECTIVE SERVICES BOARD MEETING  
DECEMBER 21, 2017  
HOLIDAY INN NORTH  
2805 HIGHWOODS BLVD  
RALEIGH, NC 27604**

### BOARD MEMBERS PRESENT

Eric Weaver Sr.  
Ed Cobbler  
Clyde Cook  
William Fletcher, Jr.  
William MacRae  
Steve Johnson  
Richard Epley  
Nada Lawrimore  
David Arndt  
Marcus Benson

### BOARD MEMBERS ABSENT

Bud Cesena (*attended via conference call*)  
Larry Proctor  
Brian Lowman

### STAFF PRESENT

Brian Jones - Director  
Phillip Stephenson – Deputy Director  
Jeff Gray - Attorney  
Cynthia Hepburn - Investigator  
Melvin Turner – Training Officer/Investigator  
Ronald Broadwell - Investigator  
Garcia Graham – PPS Board Secretary

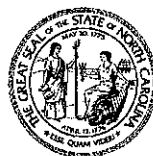
### GUESTS PRESENT

Warren Hall  
Derek Partee  
Creo M. McIver II  
Orrin Bynes

David Bailey  
Kevin Satterfield  
Jerome Cordove  
John Shoenfelt

Adam Bridges  
Jeri Williams  
Charles Gayton  
Mark Wohlwick

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Deborah Worley  
Michael Easterday  
David Ferrell  
Gregory Hatten  
Chris Lewis  
Elvalorie Matthews  
Mack Donaldson  
Uka Leonard  
Harry House  
Robert Dunn

Larry Flanner  
Jim Davis  
Ryan Moran  
Shaun Marso  
Tim Neal  
Michael Tucker  
Jim Phillips  
David Leonard  
Gary Pastor  
Tamara Rabenold

Edie Robinson  
Scott Siano  
Gerald Stickl  
Jim Geiger  
Suzanne Creech  
Brandon Blucher  
Denise Martin  
Dorian Dehnel  
Andy Renfrow  
Cheryl Thomas

### **CALL TO ORDER**

Chairman Eric Weaver called the December 21, 2017 Private Protective Services Board meeting to order at 9:30 a.m. He noted Mr. Cesena's presence via telephone conference call, informing the Board members that he could not attend the meeting. Mr. Weaver led the group in the reciting of the Pledge of Allegiance followed by him welcoming all guests.

### **GOOD OF THE ORDER:**

Attorney Jeff Gray 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, NCAPI, greeted the Board and all guests. He announced the NCAPI meeting, which was to be held on January 13, 2018 in Winston-Salem. Mr. Hatten reports this is his last meeting as President and introduced the incoming President, Tamara Rabenold. Ms. Rabenold then introduced the NCAPI Board members who were present and stated she was looking forward to working with the PPS Board and industry members.

Mr. Weaver then recognized Mr. MacRae.

Mr. MacRae gave an update on his report from the last Board meeting regarding the Association of Professional Security Providers of North Carolina noting it has been duly incorporated and has put together a website, which includes bylaws and an application for membership. He noted at the present time the Board of Directors is comprised of David Arndt, Bill Fletcher and himself and stated as new members come into the Association, new Board members will be added as per the bylaws. Mr. MacRae stated they are looking forward to serving the private security industry in North Carolina and welcome those wanting to join. The website is [www.APSPNC.com](http://www.APSPNC.com)

**MINUTES:**

**APPROVAL OF THE OCTOBER 26, 2017 BOARD MEETING MINUTES**

**MOTION BY MR. FLETCHER TO ACCEPT THE MINUTES; SECONDED BY MR. ARNDT; MOTION CARRIED.**

**SCREENING COMMITTEE REPORT:**

Mr. Arndt stated that the Screening Committee met on Wednesday, December 20, 2017, from 1:30 p.m. to 5:22 p.m. to review a total of 54 applications. (See report attached). The Committee members included Mr. MacRae, Mr. Fletcher, Mr. Arndt, Mr. Benson and Mr. Cobbler. Mr. Arndt read the report for the record. (See report attached)

Mr. Arndt recused himself from #54 of the Screening report.

**MOTION BY MR. COBBLER TO ACCEPT THE SCREENING REPORT WITH THE EXCEPTION OF THE LAST ITEM ON THE ADDENDUM; SECONDED BY MR. COOK; MOTION CARRIED.**

With regard to the last Addendum item, the exemption for polygraph license of Tammie McLean Phillips:

**MOTION BY MR. ARNDT TO GO INTO CLOSED SESSION TO RECEIVE LEGAL ADVICE FROM THE BOARD ATTORNEY REGARDING THE EXEMPTION REQUEST OF TAMMIE PHILLIPS' POLYGRAPH LICENSE; SECONDED BY MR. MACRAE. MOTION CARRIED**

CLOSED SESSION: 9:46 a.m.  
RECONVENED: 10:04 a.m.

**MOTION BY MR. MACRAE TO DEFER THIS MATTER UNTIL THE FEBRUARY 2018 BOARD MEETING; SECONDED BY MR. FLETCHER. MOTION CARRIED.**

Mr. Arndt suggested staff or Mr. Gray contact applicant regarding deferral to the February meeting.

**REGISTRATION REPORT:**

None.

## **GRIEVANCE COMMITTEE REPORT:**

Mr. Johnson reported that the Grievance Committee met on Wednesday, December 20, 2017 from 9:00 a.m. to 11:11 a.m., and heard a total of seven cases. The Committee members included Mr. Cook, Mr. Johnson, Mr. Epley, Ms. Lawrimore and Mr. Cobbler. Mr. Johnson read the report for the record. (See report attached.)

Mr. Cesena recused himself from case 2017-PPS-019 of the Grievance report.  
Mr. Cook recused himself from case 2017-PPS-013 of the Grievance report.

**MOTION BY MR. COBBLER TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.**

## **TRAINING & EDUCATION COMMITTEE:**

Mr. MacRae reported that the Training & Education Committee met on Thursday, December 21, 2017 from 8:00 a.m. until 8:57 a.m. The Committee members included Mr. MacRae, Mr. Arndt, Mr. Cobbler, Mr. Johnson, Mr. Epley and Mr. Cook.

Mr. MacRae reported that currently there are 381 PPS certified unarmed guard trainers and 138 certified armed guard trainers. Mr. MacRae stated there will be a PPS training course for CEU credit following the Board meeting, from 1:00 to 5:00 PM at that same location.

Mr. MacRae then called upon Mr. Melvin Turner to give his report on weapons discharges.

### **Weapon discharge:**

Mr. Turner gave an update on the previously reported armed guard shooting from the October 2017 Board Meeting, where he reported that on 08/23/17, an armed guard shot and killed an armed suspect during an attempted robbery at an East Charlotte sweepstakes business at the Queen City Skillsville building in the 5600 block of Albermarle Road in Charlotte, NC. Mr. Turner stated that a Cease & Desist Letter had been mailed out to several subjects involved in of the incident as well as Complaint Cases filed which are currently scheduled for the February 2018 Grievance Committee meeting.

Mr. Turner then reported that on 12/11/17 at 04:06am, a guard, Albert F. Haskins, Jr. (Active – Pending Processing as of 09/18/17), was shot and killed while working as an employee of “The Hook” Sweepstakes business at 4306 Kernersville Rd. in Winston Salem, NC. Mr. Turner stated that according to Winston Salem Police Department (WSPD), two armed suspects entered the sweepstakes business at about 4:00 a.m. with handguns drawn and robbed the business. During

the robbery, Officer Haskins was shot and killed, and another victim (unknown), was shot multiple times and taken to a nearby hospital. Mr. Turner stated that the two suspects fled the scene with an unknown amount of cash and that of this date, the case remains under investigation for homicide and robbery per the initial police incident report. Mr. Turner reported that per the WSPD, no further information would be released at that time due to this matter being in the early stages of an active investigation. Mr. Turner reported that on 12/15/17, he called Sgt. Gregory Dorn with the Winston Salem Police Department, Investigations Division, however no direct contact was made and a message was left for him to please return the call in reference to the incident. Mr. Turner stated he made contact with the Qualifying Agents or managerial representative for three security guard and patrol companies with which Mr. Haskins was actively registered as a guard according to PPS records but that none of the companies were aware of Mr. Haskins working on that evening and did not have "The Hook" sweepstakes business as one of their clients.

Mr. Turner reported that on 12/18/17, he again attempted to make contact via telephone with WSPD Homicide Division's, Sgt. Dorn and Lt. Cartwell but as of the date of the report, no contact had been made in reference to this incident. Mr. Turner stated that also on 12/18/17, he made contact via email with WXII 12 News in Winston Salem, NC where he was asked for any information pertaining to this case and he advised he could not provide any further information than already provided due to this being a pending criminal investigation.

Mr. Turner reported that on 12/07/17, Investigator Hepburn was advised by Special Agent Cecilia Hill of the NC State Bureau of Investigation that about 10:18pm on 08/25/17, an unregistered armed guard, Clark E. Seymour, got into an altercation with an unarmed suspect attempting to steal a money bag from Jamestown Enterprises, an on-line gaming and internet sweepstakes business at 4556 NC72 Hwy in Lumberton, NC, and that during the altercation, Mr. Seymour shot and killed the suspect. Mr. Turner stated the incident is currently being investigated by the Robeson County Sheriff's Office for possible charges against Mr. Seymour. According to the North Carolina Administrative Office of the Court system, no charges had been filed against Mr. Seymour as of the date of this report.

Mr. Turner stated that on 12/18/17 at 1:07 pm, he called the Jamestown Enterprise location and spoke with an unknown female, whereby he asked if a manager was available and she stated there was no available manager. Mr. Turner asked who the manager was and she stated, "Roxanne." As additional questions were about to be asked, the unknown female was approached by someone that stated something to her (inaudible) and she abruptly hung up. Mr. Turner reported that he then attempted to make contact via telephone with Detective Brandon Patterson with the Robeson County Sheriff's Office, who is working the case, on 12/18/17 at 1:25pm, but as of the date of this meeting, no contact had been made.

PPS has issued a verbal Cease & Desist for Mr. Seymour due to not having been first properly registered as an armed guard.

**Training Update:**

Mr. MacRae thanked Mr. Turner for his report and then gave an update that the Unarmed Guard Trainer Manual and PowerPoint presentation as well as the Firearms Trainer Manual and PowerPoint presentation have both been completed and thanked Mr. Turner, Mr. Cesena and Mr. Johnson for their efforts in bringing these up to date.

Mr. MacRae reported that a request had been made to finalize the recertification process for active firearms trainers that have previously qualified with the shotgun and rifle within the last year. He stated a possible resolution is to hold those trainings during the same period of time as the handgun qualification and noted that Mr. Johnson brought to the Committee's attention the difficulty in conducting both day and night for handgun, revolver and long gun, especially during the month of July because of daylight savings time. That matter was deferred and Mr. Johnson and Mr. Turner will be working with Chad Thompson at the Justice Academy to address this issue.

Mr. MacRae reported that Mr. Turner and Mr. Lee conducted several training audits and no violations were found.

Mr. MacRae stated there was a request by firearms trainer, Mark Greenfield to look into the possibility of including the Sig Sauer MPX 9mm (a unique weapon by design, which is 17.5" – 21" inches long and weighs approximately 6 pounds; a collapsible stock can also be added to the list of approved firearms. Mr. MacRae reported the Committee discussed it and felt that at this point in time there was not a need to add this particular firearm to the approved list of firearms for security officers. During a brief discussion between Mr. Weaver and Mr. MacRae, Mr. MacRae explained that the Committee's decision was based on several factors but that basically for someone to be certified with a handgun, the firearm has to be drawn, and to the Committee's knowledge at the present time, there is no appropriate holster for this particular "handgun."

Mr. MacRae recognized Gary Pastor from the floor, who had a question regarding the Sig Sauer MPX 9mm as it relates to the PPS statute. Attorney Gray explained that this particular weapon is not standard and that our statute says a "standard" semi-automatic handgun. Mr. Gray also noted that on Sig Sauer's website the MPX 9mm is not listed as a handgun.

Mr. MacRae stated that as security officers the weapons used must be evaluated differently than that of law enforcement in that they are to be defensive weapons only, not offensive weapons and therefore, the Committee must look at each submission in the context as to the

appropriateness of specific weapons noting there was a thorough discussion by the Committee whereby Mr. Johnson and Mr. Gray both provided excellent legal and technical advice.

Mr. Weaver asked that the Training and Education Committee revisit this issue in the future if there is a demand.

Mr. MacRae stated, as Mr. Gray noted that this firearm, is something that will be evaluated as the market and environment develops.

Mr. MacRae turned the floor over to Mr. Johnson.

Mr. Johnson asked permission of the Committee to evaluate the possibility of mirroring the CJ Commission's firearms manual process, whereby the administrative rules reference the manual for specific rules, which would allow for greater flexibility when considering changes to requirements, such as courses of fire. He noted that it can take between six months to one year, if the Board needs to make changes to its manual. If the manual is adopted by reference in the rules, the Board can make changes quickly as the Board would not have to deal with rulemaking process and the Rules Review. Mr. Johnson stated he doesn't know if the Rules Review Commission will allow the Board to do that but there is a precedent and asked permission to pursue it and find out if it can be done in order to simplify the process.

Mr. MacRae noted that the Committee did make a motion to direct Mr. Gray and Mr. Johnson to review the firearms manual issue and stated he believed it would allow PPS to react more quickly to the changes that occur in the training environment.

Mr. MacRae then reported that the Training & Education Committee reviewed several applications for continuing education credits:

Affordable Educators: Course #600: PI Ethics (Online 2 hours)  
Affordable Educators: Course #601: PI Blunders (Online 6 hours)  
Affordable Educators: Course #602: PI Best Practices (Online 6 hours)  
Affordable Educators: Course #603: PI Fraud (Online 6 hours)  
Affordable Educators: Course #604: PI Claims (Online 6 hours)  
Professional Development: Promoting Your Business (Online 2 hours)  
Professional Development: Protecting Your Business (Online 2 hours)  
Professional Development: Understanding Privacy Laws (Online 2 hours)  
Interviewing, Note Taking & Testifying (Classroom 6 hours)  
Insurance Investigations and the NC Private Investigator (Classroom 6 hours)  
JPM Level 1: Jigsaw Protection Model (Online 6 hours)  
How to Detect Human Trafficking (Online 3 hours)  
Private Investigator Training Course (3-Day Classroom 12 hours)

Worker's Compensation Fraud (Classroom 3 hours)  
Introduction to Insurance Fraud (Classroom (3 hours)

**MOTION BY MR. COBBLER TO ACCEPT THE COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING APPROVAL. SECONDED BY MR. COOK; MOTION CARRIED.**

BREAK: 10:34 a.m.  
RECONVENE: 10:59 a.m.

**GRIEVANCE COMMITTEE:**

NONE

**SCREENING COMMITTEE:**

NONE

**LAW AND RULES COMMITTEE**

Ms. Lawrimore reported that the Law and Rules Committee met on Wednesday, December 20, 2017 from 8:00 a.m. to 8:48 a.m. The Committee members included Ms. Lawrimore, Mr. MacRae, Mr. Fletcher, Mr. Arndt, Mr. Cesena, Mr. Cook and Mr. Proctor. Ms. Lawrimore stated that Director Jones had been approached by a member of the Legislature about our Board possibly addressing provisions for armed guards in proprietary locations. Ms. Lawrimore stated the Committee had discussed it. She noted that, as was reported by Mr. Turner earlier in his report, the main concern right now are the sweepstakes business locations where there have been several incidents recently.

Ms. Lawrimore reported that pending legislation related to Private Protective Services has passed the House and is sitting in the Senate for the short session with hopes that it is going to be passed.

Ms. Lawrimore asked Director Jones if he had anything to add regarding the proprietary situation Director Jones clarified that the Board made the request to look into the matter, not a request from the Legislature. He further explained that he had spoken with the Director of Legislative Services for DPS to explore the issue.



**MOTION BY MR. FLETCHER TO ACCEPT THE LAWS AND RULES COMMITTEE REPORT. SECONDED BY MR. COBBLER; MOTION CARRIED.**

**FINANCE REPORT:**

Mr. Fletcher reported that the Finance Committee met on Wednesday, December 20, 2017 at 5:23 p.m. until 5:24 p.m. and reconvened on Thursday, December 21, 2017 at 9:00 a.m. until 9:25 a.m. The committee members were Mr. Fletcher, Mr. MacRae and Mr. Arndt. Mr. Fletcher stated the Education Fund balance is \$89,609.54. He noted that the DPS auditors finished their internal audit and mentioned the numbers for the three-year report show a decrease in revenue. His hope is that once licenses are renewed and new licenses are issued, this will correct itself.

**MOTION BY MR. MACRAE TO ACCEPT THE FINANCE COMMITTEE'S REPORT; SECONDED BY MR. COOK; MOTION CARRIED.**

**ETHICS COMMITTEE**

Mr. Benson reported that he forwarded information from Dottie Benz of the Ethics Commission, and reminded everyone about accepting holiday gifts and to be careful of what is offered by lobbyists. He also reminded Board members to make sure to file their Statement of Economic Interest and Ethics and Lobbying Education Training by April 15, 2018.

**MOTION BY MR. COBBLER TO ACCEPT THE ETHICS LIASON'S REPORT; SECONDED BY MR. ARNDT; MOTION CARRIED.**

**OLD BUSINESS:**

Memorandum of Understanding. Deferred until the February 22, 2018 meeting.

**NEW BUSINESS:**

Director Jones noted that Dorian Dehnel with CriminalRecordCheck.com was present at the meeting. Mr. Jones stated that recently, Mr. Dehnel made PPS aware of an issue with the criminal background reports where applicants who apply for registration are given a choice to obtain a criminal record in another state or jurisdiction if one was located during the initial search. Director Jones noted that while it does incur an additional expense, Mr. Dehnel's experience has been that some are choosing to not have that additional record run and therefore, what PPS receives is a potentially incomplete record. Mr. Jones, along with Mr. Dehnel, asked

the Board to consider adopting a policy that would require CriminalRecordCheck.com to obtain that additional criminal record if one is found out-of-state. Director Jones stated that Mr. Dehnel spoke before the Alarm Systems Licensing Board and that Board adopted a policy that would require the out-of-state record check be obtained and be provided to PPS staff. As Director, he stated, it is important that the processing assistants are armed with as much information as available.

Mr. MacRae commented that while he understood the importance of the complete background report, he is uncomfortable with forcing companies to pay extra for the additional information. Mr. MacRae suggested that the company be made aware so that they can choose not to have the additional background run, but also make certain that they understand that if an incomplete report is included with the application it will not be processed by PPS staff.

Mr. Weaver asked Director Jones if that would be his recommendation.

Director Jones stated his hope would be that the Board would adopt a policy that we would not accept a criminal record at all if it is not complete, believing that is what the Alarm Board decided and for consistency, that would be helpful.

**MOTION BY MR. MACRAE THAT THE BOARD ADOPT A POLICY FOR ANY OUT-OF-STATE CRIMINAL RECORD DISCOVERED THAT WAS NOT PART OF THE ORIGINAL SUBMISSION TO CRIMINALRECORDCHECK.COM (CRC) AND THAT IF THE COMPANY REQUESTING SAID BACKGROUND DECLINES THE ADDITIONAL SEARCH, THEN CRC WILL NOT SUBMIT THE CRIMINAL RECORD CHECK TO PPS STAFF AS IT WILL BE CONSIDERED AN INCOMPLETE APPLICATION. SECONDED BY MR. COBBLER; MOTION CARRIED.**

#### **FINAL AGENCY DECISION**

Shaun Michael Marso - 17 DOJ 04368. Mr. Marso was present. This case was heard by Administrative Law Judge Stacy Bawtinhimer on August 1, 2017. The case involved whether the letter of reprimand issued by the Board for improper display of a badge should be upheld. Mr. Marso appeared on his own behalf. Mr. Woodard, then Interim Director, appeared at the hearing as well as Investigator Ronnie Broadwell. Findings of fact were that Mr. Marso is a licensed Private Investigator Associate with Grimes Investigations, which includes an armed endorsement, issued on March 26, 2015 with an expiration date of March 31, 2017. The Petitioner requested the hearing on the issuance of a letter of reprimand following a complaint about his display of his badge while working as a Private Investigator. Mr. Gray filed Exceptions to Administrative Law Judge Bawtinhimer's Proposal for Decision.

Mr. Gray recused as counsel to the Board to present the Proposal for Decision and Respondent's Exceptions to Proposal for Decision. Lauren Earnhart, Assistant Attorney General, was present to advise the Board.

**MOTION BY MR. BENSON TO REJECT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDATION, ACCEPT THE EXCEPTIONS, AND UPHOLD THE BOARD'S LETTER OF REPRIMAND; SECONDED BY MR. MACRAE. MOTION CARRIED. ONE OPPOSED. (Recused: Lawrimore, Cesena, Fletcher and Cook)**

Orrin Anthony Bynes - 17 DOJ 00913. Mr. Bynes was present. This case was heard by Administrative Law Judge J. Randolph Ward on April 25, 2017. This case involved whether Petitioner should be denied a security guard and patrol license based on Petitioner's lack of verifiable experience. Attorney Gray addressed the Board with regard to Mr. Bynes, reminding the Board that at the August 24, 2017 meeting, Mr. Bynes was given the opportunity to submit additional information regarding his experience before a vote on the FAD. Attorney Gray stated that there was some miscommunication between him and Mr. Bynes with regard to his being present at the October Board meeting, therefore the Board deferred until December.

Mr. Bynes submitted additional verification of experience based on his service in the Army National Guard.

**MOTION BY MR. JOHNSON TO DENY MR. BYNES' APPLICATION FOR A SECURITY GUARD AND PATROL LICENSE; SECONDED BY MR. COOK. MOTION CARRIED. (Recused: Benson, Cesena, MacRae, Cobbler, Arndt and Proctor)**

Creo M. McIver, IV - 17 DOJ 06754. Mr. McIver was present. This case was heard by the Administrative Law Judge Stacy Bawtinhimer on October 24, 2017. This case involved whether Petitioner should be denied a security guard and patrol license based on Petitioner's unfavorable employment history.

**MOTION BY MR. COOK TO ACCEPT THE PROPOSAL FOR DECISION AND RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE AND GRANT MR. MCIVER'S SECURITY GUARD AND PATROL LICENSE; SECONDED BY MR. JOHNSON; MOTION CARRIED. ONE OPPOSED (Recused: Cesena, MacRae, Cobbler, Arndt and Proctor)**

## **DIRECTOR'S REPORT:**

Mr. Jones read the report for the record. The current PPS budget as of November 30, 2017, has a balance of \$1,146,391.52; the Education Fund balance is \$89,609.54. Mr. Jones explained that the reason Mr. Arndt did not report the numbers during his presentation was that part of the Permitium transition has led to reporting challenges. Permitium is developing reports that are consistent with PPS2000, but the process is not complete. Mr. Jones reported that since the October meeting, PPS staff has entered 2,273 applications and of those, from November 1<sup>st</sup> until December 18<sup>th</sup> there have been 1,650 registration applications entered in Permitium. Mr. Jones stated the staff is becoming acclimated to Permitium, but as the process is more cumbersome as they become familiar with the new process. Additionally, there are still challenges regarding data entry, largely related to the backlog, and staff members are working with Permitium to address those. Applications received since the last meeting which are still being entered in PPS2000 are 208 for licensing and 53 certifications, which brings the active to date to an estimated 18,625 registrants and a confirmed 1845 license holders and 606 certifications. Mr. Jones reported there have been 1,465 registration cards printed since the last meeting.

Mr. Jones reported that two temporary employees began this week in the registration section to work on backlog items only. He noted the overtime compensation for existing employees, which will only be available to address the backlog, will begin on January 2<sup>nd</sup>.

Mr. Jones reported on the internal DPS audit which began December 11<sup>th</sup> and should conclude December 20<sup>th</sup>. Mr. Jones reminded the Board that the last audit, which occurred in January 2017, included extensive findings and recommendations. Mr. Jones stated that his goal was to comprehensively address the previous audit when he was appointed as Director. Mr. Jones noted that the current audit found only a couple of minor issues.

Mr. Jones reported that revenues have decreased over the last three years. The auditors recommended the fee structure be evaluated and noted that it had not been addressed for decades. He recommended the Board track this and make certain it remain financially solvent. Mr. Jones said that he has made adjustments where he can, but stated that there is very little that can be done with expenditures such as personnel, rent, phone, internet, etc. He stated he cannot control the revenue as this is dynamic and wanted the Board to be aware that there is limited flexibility with regard to expenses and revenues.

Mr. Jones provided an updated related to Permitium. Specifically, he noted that data transfer from PPS2000 had presented challenges. He also reminded everyone that the \$4.00 convenience fee is only going to be covered by PPS for 6 months.

Mr. Jones gave an update on Permitium's development of the licensing phase. He reported that an overview was provided by a Permitium representative in November and staff members were

impressed with the progress. He reported that Permittium will return in early 2018 to continue providing updates. The hope is that in a couple of months this phase will be ready for implementation.

Mr. Jones reported that since 2016, PPS had two motor vehicles under rental contract for investigators' transportation needs. He noted that when he became Director in August 2017 the agency was still renting these vehicles and had not received DPS vehicles as intended. He contacted Motor Fleet Management and subsequently received two vehicles thereby terminating the rental agreement.

As requested by the Board at the October meeting, Mr. Jones gave an update regarding the hiring of a part-time employee to assist with monitoring firearms training. He reported that after speaking with a representative from Temporary Solutions, the State's temporary employee provider, that it would cost approximately \$41,028 to utilize a 30-hour-per-week employee for one year. Mr. Jones recommended the Board be proactive in budget planning for the next fiscal year as it considers potential expenses such as this.

Mr. Jones stated that the education grant period, which was discussed at the last meeting, is still open; it closes on December 31<sup>st</sup>. He noted all of the information, application, and the policy can be found on the PPS website.

Mr. MacRae and asked Mr. Jones who presented it the Permittium licensing update and asked who received the update. Mr. Jones responded that Mr. Lewthwaite gave the update to various PPS staff members. Mr. MacRae expressed the desire that the Board be involved in Permittium meetings. Mr. Jones explained that the overview was limited to a discussion of internal PPS practices, but that he would certainly involve the Board as further developments occurred.

**MOTION BY MR. JOHNSON TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.**

**ATTORNEY'S REPORT:**

Attorney Gray discussed the following:

1. On December 15, 2016 Brian Trent Woodell and Eagle Protective Services, Inc., entered into a consent agreement with the Board in the amount of \$3,182.40 for registration violations. The Return Receipt was signed by (cannot read signature) on December 24, 2016. Payment has not been received.

2. On February 23, 2017 Dennis Pridgen and A-1 Services, LLC entered into a consent agreement with the Board in the amount of \$9,486.00 in three monthly installments for registration violations. The Return Receipt was signed by Joseph Pylypiw on (no date given). Payment had not been received so this matter was rescheduled for August Grievance Committee meeting. On August 24, 2017 the full Board voted to suspend the license until payment of \$9,486.00 is received.
3. On June 22, 2017 Felicia Myers and Absolute Contracting Services, Inc., entered into a Consent Agreement with the Board in the amount of \$3,182.40 to be paid in three monthly installments for registration violations. Board findings letter and consent was mailed on June 30, 2017 and returned on August 8, 2017 as "Unclaimed". Staff e-mailed the letter and consent agreement to Ms. Myers on August 15, 2017. The agreement was signed by the QA, Felicia Myers, on September 22, 2017. Received first payment on September 25, 2017. Paid in full.
4. On October 26, 2017 Daitwan Lamont Hardy and Security Contracting, Inc., entered into a consent agreement with the Board in the amount of \$7,466.40 for registration violations. The Return Receipt was signed by Michelle Benammor on November 9, 2017. The temporary agreement was not signed. Payment has not been received.

## **II. OFFICE OF ADMINISTRATIVE HEARINGS**

*See, Hearings List (attachment 1).*

## **III. RULES**

- a. The proposed rule changes to effectuate the use of the Board's approved provider (CRC.com) for in-state criminal records checks were adopted by the Board at its April 19<sup>th</sup> meeting. The Notice of Text was filed May 9, 2017 for publication in the June 1<sup>st</sup> version of the North Carolina Register. The rule amendments were also posted on the Board's website. The Public Hearing was held on Friday, June 16<sup>th</sup> at 2:00 p.m. at the Board's office. No one from the public attended and no oral or written comments were received. The public comment period closed July 31, 2017. The Board voted at its August meeting to approve these rules. The Rules Review Commission considered them at its December 19<sup>th</sup> meeting and they were approved. These rule amendments will be effective November 1, 2017. (Copies are attached as Attachment 2.)
- b. At its meeting on June 22, 2017 the Board adopted proposed rule changes to allow the payment of application and renewal fees by electronic check or similar methods. The Notice of Text was filed July 11, 2017 for publication in the August 1<sup>st</sup> version of the

North Carolina Register. The rule amendments were also posted on the Board's website. The Public Hearing was noticed for September 7, 2017 at 2:00 p.m. at the Board's office in Raleigh; no one from the public attended and no oral or written comments were received. The public comment period closed December 2, 2017. The Board needs to vote today to approve these rules. (Copies are attached as Attachment 3.) If approved they will be filed with the Rules Review Commission to be heard at its December meeting. If approved by the Commission at that meeting these amendments will be effective January 1, 2018.

#### **IV. LEGISLATION**

Identical House and Senate bills making various changes to Chapter 74C have been introduced in the General Assembly. They are House Bill 566 and Senate Bill 634, both entitled, "Private Protective Services Changes." The House version was referred to the House Committee on Judiciary I with a serial referral to Finance and the Senate Bill was referred to the Senate Committee on Rules and Operations of the Senate. House Bill 566 was heard in committee on Wednesday, June 14<sup>th</sup> and received a favorable report following an amendment to replace a reference to "C.F.R." with "federal regulation." Chair Eric Weaver, Interim Director Wayne Woodard, and members Bud Cesena and Bill MacRae were in attendance. It has been sent to the House Finance Committee.

#### **V. PENDING CASES**

- a. In a rare occurrence for this Board, a disciplined licensee has filed a Petition for Judicial Review in Superior Court. Private Investigator Jeffrey Scott Moore's license was suspended for a period of six (6) months for failing to make or offer a client a written report within 30 days after the completion of the investigation. The matter was heard in the Office of Administrative Hearings and the Board voted to adopt the Administrative Law Judge's Proposal for Decision at its August meeting.

The Petition was filed in Johnston County. Over the next couple of weeks Attorney Gray will be preparing and filing the Official Record and filing a Response to the Petition.

- b. For the past 42 months Attorney Gray has been reporting to the Board the status of a civil action filed 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 as a security guard, but performing armed security guard and patrol services. He was arrested by the Charlotte-Mecklenburg Police Department and charged with violating Chapter 74C.) The Court granted the Board's Motion to Dismiss Pursuant to Fed.R.Civ.P.

12(b) (6) and Motion for Summary Judgment, as well as similar motions filed by the other Defendants, on May 27, 2015 and this action was dismissed with prejudice. The Plaintiff gave notice of appeal on June 24, 2015, and the parties filed their respective Brief with the Fourth Circuit Court of Appeals on November 13, 2015.

Oral arguments in this matter were held on Tuesday, December 25, 2016 in Richmond, Virginia and Robert M. McDonnell, the attorney for the Charlotte-Mecklenburg Police Department, and Attorney Gray shared the Appellees' allotted time. Member Justin Greene attended the arguments as the Board's representative.

Attorney Gray received the opinion of the Court on November 11, 2016. In a very strange and sudden turn of events, the appeal was dismissed and the case remanded to the federal Magistrate Judge who heard the parties' motions for summary judgment.

In its simplest terms, the Court found that the Judge had failed to rule on two counts in the Plaintiff's Complaint and therefore only granted partial summary judgment; the granting of only partial summary judgment is "interlocutory in nature," which means it cannot be appealed until the entire case is concluded.

The attorneys for all parties filed a Motion for Status Conference on December 8, 2016. On April 4, 2017 the Judge ruled on this Motion by way of an Order requiring the parties to confer and file a status report. As a result of the status report filed by the attorneys the Judge ordered that the matter be re-mediated and that two issues -- the two of most importance to the Board -- be re-briefed. The second attempt at court-ordered mediation in this matter was to be held on August 16, 2017 in Charlotte, but was postponed due to the Plaintiff's attorney being unexpectedly in a criminal trial an extra day; it was held on August 28<sup>th</sup> and was impassed by the mediator since there could be no resolution. New motions for summary judgment and to dismiss and a response to the two counts in Plaintiff's Complaint as ordered by the Fourth Circuit Court, and a supporting Memorandum of Law, were filed by me on behalf of the Board on September 1, 2017. Attorney Gray then filed a Response to Plaintiff's Memorandum of Law in Opposition to the Board's Motion to Dismiss and Second Motion for Partial Summary Judgment on October 13, 2017.

Interestingly, the Plaintiff moved to dismiss four of the five Charlotte-Mecklenburg police officers as individual Defendants (leaving only Kerl) and the Judge granted the request on June 9, 2017. The City of Charlotte, the Board, (retired) Investigator Sarah Conner and CMPD officer Jason Kerl still remain as Defendants.

**MOTION BY MR. MACRAE TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. ARNDT; MOTION CARRIED.**



**PUBLIC COMMENT:**

NONE

**MOTION BY MR. COBBLER TO ADJOURN; SECONDED BY MR. COOK; MOTION CARRIED.**

1:10 P.M. Adjourned

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Brian R. Jones, Director

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Garcia Graham, Board Secretary