



North Carolina Department of Public Safety

Private Protective Services Board

Pat McCrory, Governor
Frank L. Perry, Secretary

Gregory K. Baker, Commissioner
Barry S. Echols, Director

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
OCTOBER 22, 2015
HOLIDAY INN NORTH
2805 HIGHWOODS BLVD
RALEIGH, NC 27604**

BOARD MEMBER PRESENT

Eric Weaver Sr.
David Arndt
Ed Cobbler
Clyde Cook
Marcus Benson
Richard Epley
William Fletcher
William MacRae
Donald Foster
Dustin T. Greene
Steve Johnson
Brian Lowman
Bud Cesena

BOARD MEMBERS ABSENT

Nada Lawrimore

STAFF PRESENT

Barry Echols - Director
Anthony Bonapart - Deputy Director
Phillip Stephenson – Field Services Supervisor
Jeff Gray – Attorney
Melvin Turner - Investigator
Garcia Graham – PPSB Board Secretary
CharmainPatel – Temporary Employee

GUEST PRESENT

Warren Hall
Cynthia George
James Salmon

Donelle Farrar
JD Pittman
Ruth Cruz

Chris Green
Gary Pastor
James Green

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Stephen Bill
Robert Dunn
Mark Greenfield
Larry Flannery
Paul Schroll
Sandra Polin
Sandra Russell

Steve Mitchell
David Bewster
Jeff Kiker
Jeff Cathcart
Dorian Dehnel
Mack Donaldson

Hansel Bumgarner
Gregory Hatten
Denise Matin
Dawn Cheema
Eugene Canegata
Donald Williams

CALL TO ORDER

Chairman Eric Weaver called the October 22, 2015 Private Protective Services Board meeting to order at 9:00 a.m. Chairman 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. Gary Pastor, President of the NCAPI, congratulated the re-appointees and new Board members. He reminded everyone that the fall conference will be held November 5 - 6, 2015 in New Bern, NC. The annual training conference is free for NCAPI members and \$150.00 for non-members. Mr. Pastor stated that they will be holding their annual elections for 2016. He also thanked everyone who helped fight for Private Investigator Licensees to be exempt from Senate Bill 238 (GPS) and special thanks to Jerry Pitman.

Chairman Weaver introduced two new Board members, William J. Fletcher Jr. and David C. Arndt.

MINUTES:

APPROVAL OF THE AUGUST 27, 2015 BOARD MEETING MINUTES

Mr. Foster informed Chairman Weaver that the Finance Chair was not listed in the minutes. Correction will be made to reflect Donald Foster as Chairman for the Finance Committee prior to posting to the Website.

MOTION BY MR. MACRAE TO ACCEPT THE MINUTES; SECONDED BY MR. CESENA; MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. Clark reported that the Screening Committee met on Wednesday, October 21, 2015 from 8:00 a.m. to 11:52 a.m. to review a total of 39 applications. (See report). The committee members were Mr. Benson, Mr. Cobbler, Mr. Foster, Mr. MacRae, Mr. Cesena, Mr. Ardnt and Mr. Lowman. Mr. Benson read the report for the record. (See attachment)

It was noted Mr. Ardnt recused himself from #15 of the screening report.
It was noted that Mr. Cobbler recused himself from #8 of the screening report.

MOTION BY MR. MACRAE TO ACCEPT THE SCREENING REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Mr. Greene reported that the Grievance Committee met on Tuesday, October 20, 2015 from 8:00 a.m. to 10:50 a.m. and heard a total of nine cases. The committee members were Mr. Greene, Mr. Cook, Ms. Lawrimore, Mr. Johnson and Mr. Epley. Mr. Greene read the report for the record. (See attachment)

MOTION BY MR. BENSON TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. CESENA; MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. MacRae reported that the Training & Education Committee met on October 21, 2015 from 2:00 p.m. until 3:15 a.m. The committee members were Mr. MacRae, Mr. Clark, Mr. Lowman, Mr. Ardnt, Mr. Johnson, Mr. Epley, Mr. Cesena and Mr. Cobbler.

Mr. Turner read the course schedule. The following PPS Trainer courses are scheduled:

November 2– 6, 2015 (0800-1700) UAGT Course & Workshop at WTCC

November 16, 2015 (1000-2300) FT Re-Certification & Pre-Qualification Course NCJA

Presently we have 358 certified PPS unarmed guard trainers and 104 PPS certified armed guard trainers.

The following PPS Training Courses have been completed:

| | |
|-------------------------------|---|
| January 26-30, 2015 | (0800-1700) UAGT Course & Workshop at WTCC |
| March 2, 2015 | (1000-2300) FT Re-certification & Pre-Qualification Course NCJA |
| March 16-20, 2015 | (0800-1700) UAGT Course & Workshop at WTCC |
| April 6-10, 2015 | FT Course & Legal Class at Salemburg NCJA |
| May 4-8, 2015 | (0800-1700) UAGT Course & Workshop at WTCC |
| June 1, 2015 | (1000-2300) FT Re-certification & Pre-Qualification Course NCJA |
| July 13, 2015 | (1000-2300) FT Re-Certification & Pre-Qualification Course NCJA |
| August 3-7, 2015 | (0800-1700) UAGT Course & Workshop at WTCC |
| September 2, 2015 | (1000-2300) FT Re-Certification & Pre-Qualification Course NCJA |
| September 14-18, 2015 | FT Course & Legal Class at Salemburg NCJA |
| September 28- October 2, 2015 | (0800-1700) UAGT Course & Workshop at WTCC |

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

December 17, 2015 1:00 p.m. – 5:00 p.m. Raleigh, NC

The following PPS Training Courses for CEU credits have been completed:

December 11, 2014 1:00 p.m. – 5:00 p.m. Raleigh, NC

February 19, 2015 1:00 p.m. – 5:00 p.m. Concord, NC (Cancelled – Inclement Weather)

April 23, 2015 1:00 p.m. – 5:00 p.m. Raleigh, NC

August 27, 2015

1:00 p.m. – 5:00 p.m. Raleigh, NC

On Friday, 10/09/15 at 6:02 p.m. Officer Person accidentally discharged his firearm after getting off duty at the Wilson Public Library. When he got to his vehicle he dropped the magazine from his firearms, but did not clear the chamber, which caused a single shot to go up in the sky. He advised no one was injured because of this accident. He stated one of the staff members heard the shot and stopped to ask if everything was okay. He told the lady, “Yes, everything was alright,” and he was about to call his supervisor and report what happened. No further information to report as of this date.

Mr. MacRae stated that the committee discussed the issue of whether or not an agency should notify local police department of weapon discharge. The committee recommended that Director Echols use his discretion in notifying the police department.

Mr. MacRae reported that the committee also discussed a Firearm Trainer who had allowed his certification to expire and then trained eighteen security officers. The Committee recommended the staff contact all the individuals to cease and desist until they are re-trained by a properly certified trainer. After lengthy discussion by the full Board, Mr. Cesena recommended that Stephen Bill and he volunteer to retrain all 18 security officers without charging them a fee.

Mr. MacRae stated that the subcommittee met on October 15, 2015 at Private Protective Services conference room to discuss the lesson plan and rewrite of the Unarmed Guard Training Manual.

Mr. MacRae stated that the following eight (8) continuing education training courses have been submitted for approval: Fraudulent Document Recognition for Private Investigators (8 hours); Covert Surveillance for Private Investigators (6 hours); Ethics and Private Investigations (2 hours); Interviewing Techniques and Truth Verification (5 hours); Sources of Information for Private Investigators (6 hours); Legal Aspects of Private Investigations (2 hours); Principles of Private Investigations (6 hours); Using Drones for Physical Security (3 hours).

The courses will be listed on the web page.

MOTION BY MR. BENSON TO ACCEPT THE COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING APPROVAL; SECONDED BY MR. FOSTER; MOTION CARRIED.

MOTION BY MR. CESENA TO ACCEPT THE TRAINING AND EDUCATION COMMITTEE REPORT; SECONDED BY MR. JOHNSON; MOTION CARRIED.

GRIEVANCE COMMITTEE:

NONE

SCREENING COMMITTEE:

Mr. Benson presented the following registration report for the period of August 25, 2015 to October 19, 2015. Total registrations 4,137; armed totals were 435 of which 160 were new and 221 were renewals, 3 duplicate and 51 reissue/dual. There were a total of 111 Armed Armored Car, 48 of which were new and 63 renewals. There were a total of 10 Armed Private Investigators, 4 of which were new and 6 renewals. There were a total of 1 Armed Private Investigator Associates, 1 of which was new. Unarmed totals were 3,546 which included 1436 new, 1811 renewals, 291 transfers, and 8 duplicates. There were a total of 34 unarmed armored cars, 16 of which were new and 18 renewals. Total denials were 657 of which 178 were for cause and 479 for correctable reasons. There were 585 applications approved which were previously denied for a total of 1242 denials reviewed.

**MOTION BY MR. MACRAE TO ACCEPT THE REGISTRATION REPORT;
SECONDED BY MR. CESENA; MOTION CARRIED.**

LAWS AND RULES COMMITTEE

Mr. MacRae reported that the Committee met on Wednesday, October 21, 2015 from 3:20 p.m. until 4:24 p.m. The Committee members were Ms. Lawrimore, Mr. MacRae, Mr. Fletcher, Mr. Ardnt, Mr. Foster, Mr. Epley and Mr. Cesena.

Mr. MacRae stated that they discussed the following topics. Updates on changing the Board's administrative rules to reflect the transfer to the Department of Public Safety, several pending bills in the legislature, an update on rifles as an authorized firearm, and amendments to 14B NCAC 16 . 0807, .0809, .0901, .0904. He stated that the first possible effective date for the rule amendments is February 2016. He also stated that David Burt gave a presentation on drones.

Mr. Bonapart requested the Board to consider a policy to accept electronic interview versus face to face interviews for applicants who live in another state. The Board requested that Attorney Gray draft a policy to be presented to the full Board.

**MOTION BY MR. FLETCHER TO ACCEPT THE COMMITTEE'S REPORT;
SECONDED BY MR. CESENA; MOTION CARRIED.**

BREAK: 10:00 a.m.
RECONVENED: 10:19 a.m.

FINANCE REPORT:

Mr. Foster congratulated staff on their 10% pay increase and recognized Mr. Echols for obtaining this pay increase for staff.

Mr. Foster stated that he had several items to discuss. After much discussion, the Board decided to terminate its contract with GLS. Attorney Gray has been in discussions with GLS's attorney and there is consideration being given to attempting to recoup all costs paid to GLS. We are currently looking at another vendor, Peridum, who is already a state qualified vendor that can automate our process and scan all the documents.

**MOTION BY MR. FOSTER THAT THE BOARD APPROVE \$120,000.00 TO BE
ALLOCATED FOR THE SCANNING PROJECT TO BE PERFORMED BY PERIDUM;
SECONDED BY MR. FLETCHER; MOTION CARRIED.**

Mr. Foster stated that he does not believe that there is any abuse or neglect in spending, but would like to establish a certain amount that is authorized or approved for the Director to spend. He also stated that hopefully before the next Board meeting he would meet with Director Echols and both chairmen (Alarm System Licensing Board and Private Protective Services Board) to discuss these issues.

**MOTION BY MR. FLETCHER TO ACCEPT THE COMMITTEE'S REPORT;
SECONDED BY MR. CESENA; MOTION CARRIED.**

ETHICS COMMITTEE:

Mr. Lowman stated that he has been in contact with State Ethics Commission and introduced himself as the Board's new liaison. He also will be looking at how to track all the Board members to make sure they have maintained the required training and submitted their annual reports on time.

**MOTION BY MR. BENSON TO ACCEPT THE ETHICS COMMITTEE'S REPORT;
SECONDED BY MR. GREENE; MOTION CARRIED.**

OLD BUSINESS:

Mr. Benson asked about the status of the DPS e-mail address. Once everyone has been assigned their DPS e-mail address, Mr. Echols will inform the Board members.

BREAK: 9:42 a.m.
RECONVENED: 10:03 a.m.

NEW BUSINESS:

A plaque was given to Mr. Fletcher in recognition of Monty Clark's service on the Board. Mr. Clark could not attend the meeting. Director Echols will hand deliver two other plaques, one for Bill Booth and the other for Judge Burriss in the next few weeks.

FINAL AGENCY DECISION

Donelle Farrar - 15 DOJ03448. Mr. Farrar was present, as well as his attorney Sandra Polin. This case was heard by Administrative Law Hon. J. Randolph Ward on June 23, 2015. This case involved the denial of the petitioner's application for a Private Investigator Associate License based on his unfavorable employment history.

MOTION BY MR. EPPLEY TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT DONELLE FARRAR A PRIVATE INVESTIGATOR ASSOCIATE LICENSE; SECONDED BY MR. BENSON; MOTION CARRIED.

DIRECTOR'S REPORT:

Director Barry Echols read the report for the record. The current PPS budget as of September 30, 2015, has a balance of \$1,196,909.27; the Education Fund balance is \$73,332.72. As of September 30, 2015, the total registrations for PPS is 18,728, 1,820 licensees, and 577 certifications.

Mr. Echols reported that there have been a total of 2,449 various correspondences printed from the PPS database, 5,538 registration cards have been printed and a total of 5,704 applications received since the last Board meeting.

Mr. Echols updated the Board regarding the 10% pay increase for all eligible staff. He stated that he is still looking at other properties that can accommodate staff and Board meetings. He also stated that he is currently working on a brochure and has purchased an ASLB/PPSB display

that will help promote the Private Protective Services Board. He welcomed any feedback from anyone regarding the brochure and display.

MOTION BY MR. JOHNSON TO ACCEPT THE DIRECTOR’S REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

ATTORNEY’S REPORT:

Attorney Gray discussed the following:

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Kenneth Webb/Champion National Security, Inc. - Consent Agreement in the amount of \$2,590.80 paid in full.
2. Deborah Young/National Alliance Security Agency - Consent Agreement in the amount of \$2,590.80 has not been received.
3. Collen Rose/Garda CL East, Inc. - Consent Agreement in the amount of \$6,813.60 paid in full.

The schedule of hearings in the Office Administrative Hearings is attached to the Attorney’s Report.

III. RULES

1. As previously reported, the Board’s administrative rules had to be transferred to another Title within the North Carolina Administrative Code as a part of transfer to the Department of Public Safety. The Boards are now found at 14B NCAC Subchapter 16. A copy of these renumbered rules were provided in the notebook for Tuesday afternoon’s Board member training. He has also provided a copy to the Board’s staff for their use, and for posting on the Board’s website. Also, the change from “Attorney General/Department of Justice” to “Secretary/Department of Public Safety,” have finished the review process and have been approved. These changes, along with others made by the Rules Review Commissions staff, are reflected in this latest version.

2. At the Board's December 2014 meeting it voted to approve a rifle as an authorized firearm to be carried by armed security guards upon training and registration. Amendments to 14B NCAC 16 .0807, .0809, .0901 and .0904 were approved at the Board August 27, 2015 meeting and the required Notice of Text published in the North Carolina Register and on the Board's website. A public hearing was held on these rules last Friday, October 16th. One citizen was in attendance. The public comment period expires November 30, 2015. Once any additional public comment is received and action taken by the Board, if necessary, the amended rules can be filed for review by staff with the Rules Review Commission. The deadline is December 21st (four days after the Board's next meeting.)

The minutes of the public hearing, with a synopsis of the comments, is attached. Mr. Gray recommend that the Board wait until its December Board meeting and review all comments.

A copy of these rule amendments, as published in the North Carolina Register, are attached.

IV. LEGISLATION

1. House Bill 299, "Amend Private Protective Services Act/Changes," was heard in the House Committee on Judiciary III on May 6, 2015. It was amended to add a provision allowing the Board to own real property (with a similar provision for the Alarm Systems Licensing Board), and received a favorable report. However, the serial referral to the House Finance Committee was stricken and it was referred to the House Committee on Rules, Calendar and Operations of the House. There was no further action on this bill thereafter.

Since it has a fee in it, this bill is still eligible for consideration and Mr. Gray will continue to work with Ryan Combs and Jarrett Burr, Legislative Liaisons for DPS, in the "short session" when the legislature re-convenes on April 2016.

2. A number of other bills of interest - - either directly effecting the Board, or tangentially effecting it - - have been introduced this Session. They are:
 - a. Senate Bill 408, "Firearms on School Grounds/Security Guards," would provide that the prohibition on carrying a weapon on educational property

would not apply to an armed security guard registered under Chapter 74C of the General Statutes when acting in the discharge of the guard's duties with the permission of the college, university, or superintendent of the local school administrative unit. This bill would also allow any local law enforcement agency to request a list of the armed security guards employed by the college, university, or local school administrative unit. It was referred to Senate Committee on Rules and Operation of the Senate and saw no further action.

- b. Four bills, Senate Bill 469, "Occupational Licensing Board Reporting Requirements," Senate Bill 361, "Occupational Licensing Reform Study," and House Bill 760, "Regulatory Reform Act of 2015," and House Bill 765, (also named) Regulatory Reform Act of 2015, each address some aspect of the Program Evaluation Division's Report on occupational licensing boards that was released December 2014. For the most part, the Board was not affected by this Report, however, its status as an "Article 3A agency" under Chapter 150B, the Administrative Procedures Act, could be challenged. (Note: Article 3A is the section that allows the Board to make the final decision following an administrative hearing before the Office of Administrative Hearings.)

House Bill 765 is the only one of these four bills that saw final action, and it passed and was presented to the Governor for signature on October 1st. Most provision in this bill were directed towards environmental issues, but house Bull 765 did contain two interesting provisions. A licensee of an occupational licensing board can no longer be contracted with or employed by the Board to serve as an investigator or inspector if the person is still actively practicing in the profession or occupation, Second, was a provision directing the Joint Legislative Administrative Procedure Oversight Committee to review the recommendations in the Program Evaluation Divisions report on occupational licensing boards, consult with interested parties, and make recommendations for proposed legislation in the "short session."

- c. One bill is of particular interest to the Board in that it would help resolve when someone is an "employee" and when the person is an "independent contractor." Aimed at reducing lost tax revenue due to intentional worker misclassification, House Bill 482, "Employee Fair Classification Act," has a specific provision that would require all occupational licensing boards to: 1) include on every application for licensure, permit, or certification, or application for renewal, a certification that the applicant has read and understands the employee misclassification notice set forth in new G.S.

95-278(a)(7); 2) require all applicants to truthfully certify on the appropriate application that the applicant has read and understands the employee misclassification notice set forth in new G.S. 95-278(a)(7); 3) deny the license, permit or certification application of any applicant who fails to comply with the certification requirement; and 4) revoke such license, permit, or certificate and deny and refuse to grant any renewal or other application therefor until the licensee, permittee, certificate holder or applicant shall have furnished evidence sufficient to establish compliance with new G.S. 95-279(a). The bill also provides a succinct definition of “employee.”

House Bill 482 passed the House, passed the Senate with amendments, and on return to the House for concurrence was assigned to the Committee on Rules, Calendar and Operations of the House and no further action. It is eligible for consideration in the “short session.”

- d. Twice over the past three (3) years, the Board has had to amend its administrative rules to reflect first the passage of, then an amendment to, G.S. § 93B-15.1, entitled, “Licensure for individuals with military training and experience; licensure by endorsement for military spouses; temporary license.” (Chapter 93B of the General Statutes governs all occupational licensing boards.) Senate Bill 545, “Workforce Enhancement/Veterans,” requires licensure based solely on proof of a military occupational specialty and passage of a proficiency exam.

Senate Bill 545 was signed by the Governor on July 8, 2015. A third round of rule amendments is now necessary, as well as creation of a “proficiency examination” for each of the licensees, registrations and certifications issued by the Board.

V. PENDING CASES

For the past 30 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.)

Attorney Gray informed that 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. This action was dismissed with prejudice. The Plaintiff gave notice of appeal on June 24th.

The Plaintiff-Appellant has filed his Brief and Mr. Gray is currently working on the Board's Brief for the Fourth Circuit Court of Appeals, which is not due until November 13th.

MOTION BY MR. MACRAE TO ACCEPT ATTORNEY'S REPORT; SECONDED BY MR. GREEN; MOTION CARRIED.

PUBLIC COMMENT:

Ms. Gail Wiesner addressed the Board regarding Security Guards carrying a rifle. She feels that there is no reason why a guard should be allowed to carry a rifle which is a long range hunting weapon and that the weapon is offensive. Her last concern is the need to have individuals serve on the Board who are not in the industry.

Chairman Weaver responded that the Board is made up of industry members and non-industry members and they will take her concerns into consideration.

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

11:51 P.M. Adjourned

Barry Echols, Director

Garcia Graham, Board Secretary

