

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
APRIL 22, 2010
HOLIDAY INN RALEIGH NORTH
2805 HIGHWOODS BLVD..
RALEIGH, NC 27604**

BOARD MEMBER PRESENT

Richard Allen
Ron Burris
David Pendry
James Stevens
Eric Jones
Sally Pleasant
Brenda Bishop
Mack Donaldson
Steve Johnson
Robert M. Clark

BOARD MEMBERS ABSENT

Sheriff Ashe
Sheriff Jenkins
Bill Booth

STAFF PRESENT

Terry Wright – Director
Anthony Bonapart – Deputy Director
Charles McDarris – Attorney
Phillip Stephenson – Investigator
Joyce McClure - Board Secretary
Garcia Graham – Licensing Assistant

GUEST PRESENT

David Arndt
Jeff Cathcart
Denise Martin
Mickey Weiser
Fred McKinney
Dorian Dehnel
David Pettingell

Anne Lee
Sybil Richards
Audra Coleman
Michael Cheek
Richard Eatmon
Scott Pastor
Wyatt Thompson

Paul Schroll
Larry Flannery
Ruth Reynolds
Lorin Mueller
Danny K. Barham
Ryan Johnson
James Petrie

Gary Pastor

Neil Mayzik

Eddie Harrant

Carrell Taylor
Stevie M. Riley

David Shelton
George Saleesby

Cyndy Gunther

Chairman Allen called the April 22, 2010 Private Protective Services Board meeting to order at 9:30AM. Mr. Allen welcomed all guests and requested they introduce themselves.

Attorney Charles McDarris explained the State Ethics Act, which addresses the ethics of public officials. Mr. McDarris advised that the 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.

GOOD OF THE ORDER:

Mr. Larry Flannery, President of NCAPI advised the Board that the NCAPI next conference will be a one day conference. He further advised that the conference will be held in Hickory at the Crown Plaza Hotel on April 30, 2010. Mr. Flannery also advised that the Association is currently working on new Continuing Education courses which will be submitted to the Board for approval.

Chairman Allen stated that the Continuing Education courses are still a work in progress and the approval system will improve as time goes on.

APPROVAL OF THE FEBRUARY 18, 2010 MEETING MINUTES:

**MOTION BY MRS. BISHOP TO APPROVE MINUTES AS PRESENTED;
SECONDED BY MR. CLARK; MOTION CARRIED.**

SCREENING COMMITTEE REPORT:

Mrs. Bishop reported that the Screening Committee met on Wednesday April 21, 2010 from 2:00 PM until 4:10 PM to review a total of 47 applications. Upon a review of the 47 applications, 3 were denied, 3 were deferred and the remainder of the applications were approved (see report).

The Committee members reviewing the applications were, Mrs. Bishop, Mr. Pendry, Mrs. Pleasant and Mr. Johnson. Mrs. Bishop read the report for the record.

Mrs. Bishop presented the following registration report for the period of February 16, 2010 through April 20, 2010. Total registrations 3446; armed totals were 640, which included 175 new, 432 were renewals, 1 duplicate and 32 reissue/dual. There were 3 new armed Private Investigators, 7 renewal armed Private Investigators, 1 new Private Investigator Associate and 1 renewal Private Investigator Associate. Unarmed totals were 2,795, which included 1101 new, 1,576 renewals, 106 transfer, 4 duplicates and 8 reissues/dual. Total denials 539, which included 147 for cause and 392 for correctable. There were 445 applications approved which were previously denied for a total of 984 denials reviewed.

MOTION BY MR. JOHNSON TO ACCEPT THE SCREENING REPORT AND THE REGISTRATION REPORT; SECONDED BY MR. STEVENS; MOTION CARRIED.

Mr. Stevens commented that the industry has a record of 12% error rate for registration application submissions and with staff being minimal, the industry should work harder to submit the registrations correctly and lower the error rate.

GRIEVANCE COMMITTEE REPORT:

Judge Burris reported the committee met on Wednesday April 21, 2010 from 8:00 AM until 11:25 AM. and heard a total of nine cases. The committee members were Judge Burris, Mr. Booth, Mr. Stevens and Mr. Donaldson. Judge Burris presented the attached report. (See attachment)

MOTION BY MR. STEVENS TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MRS. BISHOP; MOTION CARRIED.

FINAL AGENCY DECISIONS :

Attorney Charles McDarris removed himself as Counsel to the Board and presented the following cases.

Mr. Robert Blocker was present for the presentation of 09 DOJ 5440, the denial of his unarmed security guard application. Mr. Blocker explained to the Board the charges that resulted in his denial of the registration application. Mr. Blocker also advised that his daughter had filed the charges against him. Mr. Blocker read into the record an affidavit from his daughter recanting the allegations that she had filed.

Administrative Law Judge Melissa Lassiter upheld the Board's initial decision to deny the unarmed guard registration for lack of good moral character.

MOTION BY JUDGE BURRIS TO ADOPT THE DECISION OF THE ADMINISTRATIVE LAW JUDGE AND DENY THE APPLICANT'S REQUEST FOR A REGISTRATION PERMIT; SECONDED BY MR. JOHNSON; MOTION CARRIED

Mr. Frederick Hutchison was noticed to appear before the Board but was not present for 09 DOJ 5441. He filed an appeal to reverse the Board's decision to deny his application for an unarmed guard registration for lack of good moral character and temperate habits.

Administrative Law Judge Donald Overby upheld the Board's initial decision to deny the application.

MOTION BY JUDGE BURRIS TO ADOPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND DENY THE APPLICANT'S REQUEST FOR A REGISTRATION PERMIT. SECONDED BY MR. STEVENS; MOTION CARRIED

Mr. Emmanuel Ossai was notice to appear before the Board but was not present for 09 DOJ 2450, denial of unarmed guard registration for lack of good moral character.

Administrative Law Judge Melissa Lassiter upheld the Board's initial decision to deny the application.

MOTION BY JUDGE BURRIS TO UPHOLD THE ADMINISTRATIVE LAW JUDGE'S DECISION AND DENY THE APPLICANT'S REQUEST FOR A REGISTRATION PERMIT. SECONDED BY MR. CLARK; MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. Stevens advised the Training & Education Committee met on Thursday April 22, 2010 from 8:30 AM. until 9:15 AM. The committee members were Mr. Stevens, Mr. Allen, Mrs. Pleasant and Mr. Johnson.

Mr. Stevens read the training report. The following trainer courses are scheduled:

14 May 2010	Unarmed Guard Course.	WTCC
15 June 2010	Firearms Trainer re-certification course	NCJA
20 August 2010	Unarmed Guard Course	WTCC
13-17 September 2010	Firearms Trainer re-certification course	NCJA
28 September 2010	Firearms Trainer re-certification course	NCJA
12 November 2010	Unarmed Guard Course	WTCC
16 November 2010	Firearms Trainer re-certification course	NCJA

Presently there are 420 certified PPS unarmed guard trainers and 104 PPS certified armed trainers.

The following PPS trainer courses have been completed:

22-26 February 2010	Unarmed Guard Trainer	WTCC
2 March 2010	Firearms Trainer re-certification	NCJA

Mr. Stevens also stated that the Committee addressed two additional issues. There was a question regarding 12 NCAC 07D .0807 (k) which states: Applicants for an armed security guard firearm registration permit who possess a current firearms trainer certificate shall be given, upon their written request, a firearms registration permit that will run concurrent with the trainer certificate upon completion or an annual qualification with their duty weapons as set forth in Paragraph (c) of this Rule. The question was if the trainer fails the firearms instructor course of fire he will not possess a current firearms certificate, therefore, can the score be used toward his firearms armed guard registration?

MOTION BY MR. JOHNSON TO ALLOW THE SCORES FOR THE FIREARMS REGISTRATION AS LONG AS THE APPLICANT QUALIFIES WITH AT LEAST AN 80%; SECONDED BY MR. JONES; MOTION CARRIED.

The second question that was addressed was “Can a Law Enforcement firearms instructor train a PPS firearms instructor in the year that the PPS instructor does not go to the firing range at Salemburg to renew their firearms instructor certification?”

MOTION BY MR. STEVENS THAT THE TRAINING MUST BE CONDUCTED BY A PPS FIREARMS INSTRUCTOR; SECONDED BY MRS. PLEASANT; MOTION CARRIED.

Mr. Stevens stated that the Continuing Education course approvals are an ongoing process. There will be an open meeting in May to establish the criteria for online courses and the committee welcomes input from the industry.

MOTION BY MR. JONES TO ACCEPT THE REPORT AS PRESENTED; SECONDED BY MR. CLARK; MOTION CARRIED

GRIEVANCE COMMITTEE REPORT :

The Grievance Committee discussed an issue with a company that was using a different URL name than the company name.

MOTION BY JUDGE BURRIS TO HAVE THE ATTORNEY DRAFT A RULE TO ADDRESS WEBSITE URL'S; SECONDED BY MRS. PLEASANT; MOTION CARRIED.

MOTION BY MR. JOHNSON TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MRS. BISHOP; MOTION CARRIED.

SCREENING COMMITTEE REPORT - NONE

74C RE-WRITE COMMITTEE:

Judge Burris stated that the 74C Legislative Committee met on April 22, 2010 from 7:30 AM to 7:55 AM. Judge Burris recommended that the proposal of the draft report regarding licensing of Digital Forensic Examiners for the North Carolina General Assembly be submitted to the General Assembly.

MOTION BY MR. STEVENS TO ACCEPT THE REPORT; SECONDED BY MRS. BISHOP; MOTION CARRIED

Judge Burris stated that another issue that was discussed was the ongoing list of revisions to 74C, citing the Attorney exemption rule as an example. Judge Burris recommended that it would not be advantageous to approach the legislature while they are in short session.

MOTION BY MR. CLARK TO ACCEPT THE 74C LEGISLATIVE COMMITTEE REPORT; SECONDED BY MR. STEVENS; MOTION CARRIED

FINANCE COMMITTEE - NONE

MOTION BY MRS. PLEASANT TO GO INTO CLOSED SESSION PER COURT ORDER IN 09 DOJ 5466 AND PER G.S. 143.318.11(a)(3) AND (6) TO DISCUSS THREE ISSUES; SECONDED BY MR. JOHNSON; MOTION CARRIED.

FINAL AGENCY DECISIONS:

Mr. Stevie M. Riley Sr. was present for the FAD to review the denial of his application for a Security Guard and Patrol license and denial of his unarmed guard registration permit, case 09 DOJ 5466, for lack of good moral character. The Board was represented by Jeff Gray of Rose, Rand, Wallace. The review of the Final Agency Decision was handled in closed session per the Order of the Administrative Law Judge as required by the confidentially provision of the U.S. Army military records.

Administrative Law Judge Donald Overby proposed the Board reverse its initial decision to deny the applicant a license. The Board reviewed the official record and made the following motion.

MOTION BY JUDGE BURRIS TO UPHOLD THE BOARD'S INITIAL DECISION TO DENY THE LICENSE APPLICATION AND THE REGISTRATION APPLICATION FOR LACK OF GOOD MORAL CHARACTER FOR REASONS TO BE SET FORTH IN THE FAD; SECONDED BY MR. STEVENS; MOTION CARRIED.

Mr. Donaldson recused himself as he was unaware that the Petitioner was a former Wackenhut employee until mentioned by the Peritioner that he had worked for Wackenhut in the past.

The second issue that was discussed in closed session was a discussion of outside legal services being retained versus using an attorney from the Department of Justice.

MOTION BY MR. STEVENS TO CONTINUE WITH OUTSIDE LEGAL SERVICES; SECONDED BY MRS. PLEASANT; MOTION CARRIED.

The third matter for discussion was the review of a bid proposal for the Third Party Criminal Record Checks to be sent for approval. The Board directed the staff to continue the review of the proposals.

OLD BUSINESS – NONE

NEW BUSINESS:

The proposed Board meeting dates for the year 2011 were discussed. The Board voted to meet on the following dates:

February 23rd and 24th

April 27th and 28th

June 22nd and 23rd

August 24th and 25th

October 26th and 27th

December 14th and 15th

MOTION BY MRS. BISHOP TO APPROVE THE 2011 MEETING DATES; SECONDED BY JUDGE BURRIS; MOTION CARRIED.

DIRECTOR'S REPORT:

Director Wright presented his written report. Director Wright stated that the budget as of March 31, 2010 was \$333,624.96; the Education Fund balance is \$107,610.49. As of April 20, 2010 we have a total of 12,781 PPS registrations, 1,803 licenses, 461 certifications, one endorsement for a total of 15,046 active personnel for PPS. Active licenses and registrations for both Boards are 20,669.

Mr. Wright noted that there has been a total of 2,750 various correspondence printed from the PPS database, over 8,000 registration cards printed from the new identification card system since January 1, 2010, and 4,645 applications received since the last Board meeting.

Director Wright updated the Board on PPS staff vacancies advising the Board that Lisa Britton has accepted a position with the SBI as a supervisor in the Sex Offender Crimes Unit.

He further advised that the PPS Training Officer position will be posted soon.

MOTION BY MR. DONALDSON TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. JONES; MOTION CARRIED.

ATTORNEY'S REPORT:

Mr. McDarris stated that all Consents have been executed and paid . The Settlement Agreement with Mr. Grimes has been resolved with a payment plan and Mr. McDarris will report back at the next meeting.

Mr. McDarris stated that the filing fee of \$20 has been implemented with the Office of Administrative Hearings.

The Badge Rule 12 NCAC 07D .045 has been approved and becomes effective May 1, 2010 with one modification the badge and the PPS issued identification card must be displayed side by side in a leather case.

The following rules are now before the Rules Review Commission, 12NCAC 7D .0702.

12NCAC 7D .0807, .0404, .0203,.0706,.0806,.094, and .0911.

12NCAC 7D .0201,(.0203,.0701,.0801,.0902) regarding criminal record check is being held pending the decision of the Third Party CRC Committee.

12NCAC 7D .0202,.0702,.0802 is being presented for adoption. There were no public comments.

MOTION BY JUDGE BURRIS TO ADOPT THE RULE CHANGES TO 0202, 0702 AND 0802 AND SUBMIT TO RULES REVIEW; SECONDED BY MR. CLARK; MOTION CARRIED.

12 NCAC 07D .0701 . There were no public comments. Application for unarmed security guard registration proposed amendment is ready for adoption

MOTION BY MR. STEVENS TO SEND 0701 TO RULES REVIEW; SECONDED BY JUDGE BURRIS, MOTION CARRIED.

Mr. McDarris reviewed 12 NCAC 07D .1200 which addresses the courier experience, he stated that the rule would just require a motion to repeal the experience requirement.

MOTION BY JUDGE BURRIS TO REPEAL .1201 AND SEND THE RULE TO OAH FOR PUBLICATION; SECONDED BY MRS. BISHOP; MOTION CARRIED.

12 NCAC 07D .0201 Application For Licenses and Trainee Permits which addresses the Equifax credit check and the proposed mandatory orientation was put forth for approval.

MOTION BY JUDGE BURRIS TO APPROVE 0201 AND SEND THE RULE TO OAH FOR PUBLICATION; SECONDED BY MRS. BISHOP; MOTION CARRIED.

Mr. McDarris stated that the reciprocity issue that arose with the state of Florida will be researched by Florida and he will report back at the next meeting. Mr. McDarris informed the Board that an injunction was filed in Superior Court against Mr. Thomas Frey.

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

MOTION BY MR. CLARK TO ADJOURN; SECONDED BY MRS. PLEASANT; MOTION CARRIED.

12:25 PM Adjourned

Terry M. Wright, Director

Joyce McClure, Board Secretary