



# North Carolina Department of Public Safety

## Private Protective Services Board

Roy Cooper, Governor  
Erik Hooks, Secretary

Pamela Cashwell, Chief Deputy Secretary  
Paul Sherwin, Director

**MINUTES OF THE  
TELEPHONE CONFERENCE AND IN PERSON  
PRIVATE PROTECTIVE SERVICES BOARD MEETING  
JUNE 18, 2020  
HAMPTON INN & SUITES  
3920 ARROW DRIVE  
RALEIGH, NC 27612**

### **BOARD MEMBERS PRESENT**

Ron Burris  
John Aldridge  
Nada Lawrimore  
David Stephens  
Gerry Stickl  
Samuel Russell  
Debra Duncan  
Steve Johnson  
Tamara Rabenold  
Stacy Buff  
Kim Heffney  
Bud Cesena  
Jerry Pitman

### **BOARD MEMBERS ABSENT**

### **STAFF PRESENT**

Paul Sherwin – Director  
Jeff Gray – Attorney  
Kim Odom – Field Services Supervisor  
Garcia Graham – PPS Board Secretary

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## **GUESTS PRESENT**

William MacRae  
Attorney James Hash  
Miki Knutson Williams – via telephone  
Gregory Hatten – via telephone

## **CALL TO ORDER**

Chairman Cesena called the June 18, 2020, Private Protective Services Board meeting to order at 9:08 a.m. Mr. MacRae led the group in the Pledge of Allegiance.

## **STATE ETHICS LAW**

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.

## **MINUTES**

### **APPROVAL OF THE APRIL BOARD MEETING MINUTES.**

**MOTION BY MR. BUFF TO ACCEPT THE APRIL 23, 2020 MINUTES; SECONDED BY MR. JOHNSON; MOTION CARRIED.**

## **SCREENING COMMITTEE REPORT**

Mr. Buff stated that the Screening Committee met on Wednesday, June 17, 2020 from 8:10 a.m. to 12:32 p.m. to review a total of 50 applications. This was a closed meeting. The Committee members included Mr. Buff, Mr. Stephens, Mr. Russell, and Ms. Duncan. Mr. Buff read the report for the record.

**MOTION BY MR. JOHNSON TO ACCEPT THE SCREENING REPORT; SECONDED BY MS. RABENOLD; MOTION CARRIED.**

Mr. Russell recused himself on #28 Randy Joel Johnson.

## **GRIEVANCE COMMITTEE REPORT**

Mr. Johnson reported that the Grievance Committee met on Wednesday, June 17, 2020 from 8:00 a.m. to 10:30 a.m. and heard a total of 6 cases. This was a closed meeting. The Committee members included Mr. Burris, Mr. Johnson, Ms. Rabenold and Mr. Cesena. Mr. Johnson read the report for the record.

**MOTION BY MR. RUSSELL TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. BUFF; MOTION CARRIED.**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

Mr. Cesena announced that David Arndt has resigned as a PPSB member and Chairman effective April 30, 2020. He will be acting as the interim Chair until re-election in August. Mr. Cesena also thanked Mr. Arndt for his outstanding service on the Board.

Mr. Cesena advised the Board that the contract with PPSB Attorney Jeff Gray, Of Counsel, Bailey & Dixon, LLP, is up for renewal and he would like to ask the Board for a motion.

**MOTION BY MR. RUSSELL TO RENEW ATTORNEY GRAY'S CONTRACT; SECONDED BY MR. BUFF; MOTION CARRIED.** One opposed, Ms. Lawrimore.

Mr. Cesena reported that Director Sherwin presented the proposed 2021 meeting dates for the Board's consideration. Director Sherwin suggested that all meetings be held in Raleigh. The Board accepted the proposed meeting dates.

The schedule is as follows:

February 17-18, 2021 - Raleigh  
April 21-22, 2021 - Raleigh  
June 16-17, 2021 - Raleigh  
August 18-19, 2021 - Raleigh  
October 20-21, 2021 - Raleigh  
December 15-16, 2021 – Raleigh

**FINAL AGENCY DECISION**

Nickolas Scott Chatham – 19 DOJ 00487 at the request of Petitioner his hearing was deferred until the August 20, 2020 Board meeting.

Miki Knutson Williams - 19 DOJ 05239. Ms. Williams was present via telephone. This case was heard by Administrative Law Judge Melissa Owens Lassiter on November 19, 2019. Her attorney James Hash was present "live" at the meeting at the Hampton Inn & Suites. This case involved the denial of the Petitioner's renewal application of her Private Investigator license based on an unfavorable criminal history.

**MOTION BY MR. RUSSELL TO ACCEPT THE ADMINISTRATIVE LAW JUDGE'S DECISION AND GRANT MS. WILLIAMS PRIVATE INVESTIGATOR RENEWAL**

**APPLICATION; SECONDED BY MR. HEFFNEY; MOTION CARRIED.** Recused: Mr. Buff and Ms. Duncan.

**DIRECTOR'S REPORT:**

Director Sherwin read the report for the record. He reported the Board's revenue as of May 31, 2020 was \$1,347,249.04 with expenditures in the amount of \$1,259,315.82, reflecting an increase to the fund balance of \$87,933.22. The total fund balance was \$1,252,883.87. He reported the Education Fund balance was \$114,064.27. Director Sherwin reported that since the last Board meeting, the total active registrations for PPS is 20,799, license holders 2,551 and certification holders 518.

Director Sherwin reported that Private Protective Services Director Brian Jones has resigned from his position on May 31, 2020. Paul Sherwin, the agency's deputy director under Director Jones, was appointed to the position of Director on June 1, 2020.

Director Sherwin stated that due to COVID-19, Private Protective Services on March 16, 2020, transitioned to a staggered schedule for employees. The office is currently staffed with two people and open to the public on Mondays, Wednesdays, and Fridays from approximately 8 a.m. to 4 p.m. Those assigned to the office for the day are responsible for sorting mail, receiving packages, assisting visitors, printing registration cards, processing fingerprint results, and completing other tasks that cannot be done while working from home. Additionally, employees may come to the office on Tuesdays and Thursdays, but the office is closed to the public.

Private Protective Services currently has five vacant positions:

- Deputy Director (hiring in progress)
- Raleigh-based Investigator (hiring in progress)
- Hickory-based Investigator
- PPSB Licensing Assistant
- Administrative Assistant
- Registration Applications

Director Sherwin stated that as of June 15, 2020, employees are processing new armed guard applications submitted through May 29, 2020; renewal armed guard registrations through May 27, 2020; new unarmed guard applications submitted through May 18, 2020; and renewal unarmed guard applications through June 15, 2020.

The processing of some registration applications has been delayed while PPS staff wait to receive fingerprint cards from applicants, and/or a complete online background check from CriminalRecordCheck.com. As COVID-19 restrictions begin to lift, these delays should subside.

Director Sherwin reported that the Private Protective Services Board accepted grant applications from February 14, 2020, through April 24, 2020. One grant application was received, and it is pending review by the PPSB Training and Education Committee.

**MOTION BY MR. BUFF TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. STICKL; MOTION CARRIED.**

**ATTORNEY'S REPORT**

Attorney Gray discussed the following:

**I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES**

1. On June 20, 2019 Sione Atu Latu/Security On Call, LLC entered into a Consent Agreement with the Board in the amount of \$13,096.80 for registration violations. The temporary agreement was not signed. The signature on the return receipt for the Consent Agreement for signature is illegible and the signature date was omitted. It was not signed and returned and payment has not been received. On December 19, 2019 the full Board issued a cease and desist to Sione Latu and Security On Call, LLC for failure to pay the consent agreement in the amount \$13,096.80. At its February meeting the Board requested that Mr. Gray initiate civil action for failure to comply with the consent agreement. On March 5, 2020 Mr. Gray filed a Complaint for Money Owed. To date, Mr. Gray has been unsuccessful in obtaining service on either of the Defendants or the Defendant LLC.

The Grievance Committee recommended the Board Investigator serve Mr. Latu

2. On December 19, 2019 Jeffrey LaRe/The Whitestone Group of Ohio, Inc., entered into a Consent Agreement with the Board in the amount of \$5,140.80 for registration violations. The temporary agreement was signed by QA Jeffrey LaRe on December 18, 2019 and he signed and returned the final Consent Agreement on February 21, 2020 but did not include the first of two payments. He was scheduled to appear before yesterday's Grievance Committee meeting. Paid in full

**II. ADMINISTRATIVE RULES**

a. At its meeting on February 22, 2018, the Board began the process for its Periodic Review of Rules to occur in August 2018. The report for the Board's rules was filed and the Public Comment Period ended May 8, 2018. No public comments were received. The Board voted at its June 21, 2018 meeting to approve all of its existing rules.

The Board's rule readoptions have been on the Rules Review Commission's August 16, 2018 agenda. The report containing the final classification of the entirety of the Board's rules as "Necessary with Substantive Public Interest" was approved. At its October 25, 2018 meeting, the Board voted to readopt these rules. On November 16<sup>th</sup> the Notice of Text was filed to commence what is essentially the rulemaking process (i.e. 60-day comment period, public hearing, technical change requests, etc.). A copy of the administrative rule readoptions, were attached to Mr. Gray's December 20, 2018 Attorney's Report.

The Notice of Text for the readoptions was filed, the rules were published on the Board's website and in the North Carolina Register (Vol. 33; Issue 5; Feb. 1, 2019), and a Public Hearing

was conducted on February 20, 2019. No written or oral comments were received. The Public Comment Period ended on April 2, 2019. These administrative rule readoptions were an attachment to Mr. Gray's April 25, 2019 Attorney's Report and approved by the Board that day. These rules were approved by the Rules Review Commission at its July 18, 2019, readopted by the Board at its October 2019 meeting, and then had to be re-submitted to the Commission, this time for review and approval as permanent rules.

These readoptions have been re-filed for review by the Rules Review Commission in segments. The first set, consisting of 26 rules, were filed on November 20, 2019. Mr. McDarris and MR. Gray received 30 pages of Requests for Technical Changes from the Staff Attorney for the Rules Review Commission. Due to the sheer volume of the Requests, and the need to meet with Board staff in order to respond to many of them, Mr. McDarris requested a 30 day extension of time to respond to the Requests which were otherwise due December 13, 2019.

Because of the importance of the on-line application rules (*see, b., below*), it was necessary to file them even though the statutorily mandated re-adoption process was underway. Since these rules were amended during the re-adoption process for all PPSB rules, the RRC allowed us to both amend and re-adopt the "Permitium rules" at the same time.

The first 26 rules passed the Commission on February 20, 2020. A second segment, consisting of 30 rules, was filed with the Commission on March 18<sup>th</sup>. Mr. McDarris and Mr. Gray received 29 pages of Request for Technical Changes from the Staff Attorney on April 1, 2020. With a concerted effort -- and due in part to the slow-down caused by the various COVID 19 containment measures -- we were able to respond to all Requests by the April 9<sup>th</sup> deadline without requesting an extension of time. These rules were approved by the Commission at its meeting on April 16<sup>th</sup>.

Two rules, 14B NCAC .0109 and .0704 received a Staff Objection. The objection to .0704 is identical to the objection to 14B NCAC .0804 in the first set of rules submitted and at its February Board meeting the Board voted to repeal .0804. Since .0704. was identical to .0804 the Board voted to repeal it at its April meeting, as well as .0109, which stated that the Board will follow the hearing and rulemaking procedures set forth in Chapter 150B of the General Statutes. (It's already required by law, so was unnecessary.)

Mr. McDarris filed the third and final segment, consisting of 31 rules, on May 19<sup>th</sup>. He and Mr. Gray resolved Request for Technical Changes from the Staff Attorney last week and these rules are to be considered by the Rules Review Commission today (June 18<sup>th</sup>.)

b. At the August 22<sup>nd</sup> meeting, staff requested, and the Board approved allowing applicants for licensure and registration to submit fingerprints through approved systems -- known by the most common vendor name as "Live Scan" -- in addition to a traditional fingerprint card. Mr. Gray was instructed to prepare amendments to the corresponding administrative rules for applications. Those rule amendments were adopted at the Board's October meeting and the Notice of Text, which begins the formal rulemaking process, will be filed upon completion of the Periodic Review of Rules process.

c. Also at its August 22<sup>nd</sup> meeting the Board discussed allowing firearms trainers to train independent of a licensed company. Concern was expressed that if allowed, these trainers would not be covered by the company's insurance. Mr. Gray was instructed to prepare a rule amendment that would require an "independent" firearms trainer to have the liability insurance required by N.C. Gen Stat. § 74C-10(e). That amendment was made a part of 14B NCAC 16

.0902 and approved along with the two rule amendments referenced in d., above, and the Notice of Text will be filed at the same time.

d. At its April meeting the Board adopted amendments to five existing administrative rules -- 14B NCAC 16 .0201, .0806, .0904, .1202 and .1203 -- by way of the Emergency rulemaking process to address issues brought about by the virus pandemic and the Governor's various Executive Orders. Those Emergency rule amendments were effective May 6, 2020. Copy attached as Attachment 2.

As Mr. Gray explained at that meeting, to adopt an Emergency rule, a State agency is required to simultaneously start the Temporary rulemaking process. (Note: After we started the process the legislature passed a law doing away with this requirement up through August 1, 2020.)

The proposed Temporary rulemaking amendments were submitted to the OAH and interested parties on April 29<sup>th</sup> and published on the OAH website on May 5<sup>th</sup>. The Public Hearing was held May 12<sup>th</sup> and the Public Comment Period ended May 29<sup>th</sup>. There were no comments written or oral.

A vote to adopt these Temporary rules is in order for today's meeting.

**MOTION BY MR. JOHNSON TO ADOPT THE TEMPORARY RULE AMENDMENTS;  
SECONDED BY MR. ALDRIDGE; MOTION CARRIED.**

### **III. LEGISLATION**

a. At the request of the Law & Rules Committee, Mr. Gray prepared a new proposed bill for introduction in the current 2019-2020 Legislative Session. The bulk of this new bill is identical to House Bill 566/Senate Bill 634 from the 2017-2018 Session but with the addition of one new provision voted on by the Board after introduction of these bills, as well as various technical changes you approved.

The Law & Rules Committee considered this new bill at its meeting on December 20, 2018. A copy was attached to Mr. Gray's December 21, 2018 Attorney's Report, and the proposed bill was discussed at the full Board meeting on December 21<sup>st</sup> where it was deferred to a special Board meeting. Another copy was e-mailed to all Board members and it was again discussed at a special Board meeting via telephone conference call on January 25, 2019. It was tabled for discussion until the Board's February 21<sup>st</sup> meeting and was approved with some minor modifications. It was introduced in the House as House Bill 630, "Private Protective Services Changes." A copy of the original version of House Bill 630 was attached to Mr. Gray's April 25, 2019 Attorney's Report.

House Bill 630 was heard in the House State & Local Government Committee on April 29<sup>th</sup> and following a minor technical amendment it received a unanimous vote for a Favorable Report and was referred to the House Finance Committee. It was heard in that Committee on May 29<sup>th</sup> where it was amended to include a rewrite of the law governing the Alarm Systems Licensing Board. With only two or three "nay" votes, it received a Favorable Report and was referred to the House Committee on Rules, Calendar, and Operations of the House on May 29, 2019, where it was amended to a Private Investigator to receive an endorsement on his or her existing license to perform Close Personal Protection (in lieu of a license) under certain circumstances. It received a Favorable Report. House Bill 630 passed the House on July 9<sup>th</sup>

with minor floor amendment (“Chairman” to “Chair”) and has been referred to the Committee on Rules and operations of the Senate.

A copy of House Bill 630 as it currently appears was attached to Mr. Gray’s August 22, 2019 Attorney’s Report.

b. House Bill 902, “Military-Trained/Spouse Licensure Practices,” was introduced on April 16, 2019. This bill would require the Program Evaluation Division of the General Assembly to study the extent to which the provisions of N.C. Gen. Stat. § 93B-15.1 have improved the ability of military-trained applicants and military spouses to become licensed by occupational licensing boards. The PED’s study would have been due to the Joint Legislative Oversight Committee on General Government and to the Department of Military and Veterans Affairs by February 1, 2020.

This bill passed the House 114-0 on May 2<sup>nd</sup> and was referred to the Senate Rules Committee. (No copy attached.) However, even though bill has not passed, it appears as if the PED proceeded with the study. At its February 10, 2020 meeting the Program Evaluation Oversight Committee considered a bill to amend N.C. Gen. Stat. § 93B-15.1 yet again to strengthen its provisions and amend N.C. Gen. Stat. § 93B-2 to require reporting on the number of applications received, granted and denied. A copy of this bill draft was attached to Mr. Gray’s March 26<sup>th</sup> Attorney’s Report.

The actual bill has now been introduced, with identical versions in both the House and Senate as HB 1053 and SB 717. Copy was attached as Attachment 3.

c. Senate Bill 553, “Regulatory Reform Act of 2019,” is a broad-ranging bill addressing a myriad of laws from the limits on public employees benefitting from government contracts (raising the cap!), to amending the plumbing code, to amending the real estate licensing law, to repealing the ban on computer monitors and TVs being dumped in landfills. One provision, however, would effect the Board.

Section 4.(a) of this bill, if passed, would require all Gen. Stat. § 93B-1 boards to study and report to the Legislative Administrative Procedures Oversight Committee by December 31, 2019 any available options for on-line continuing education. This bill passed the Senate on June 11<sup>th</sup> after a single amendment (“Committee Substitute”), but was amended numerous times in House committees and on the floor before passing the House on July 8<sup>th</sup>. Since that time it has been tied up in a joint Conference Committee. (No copy attached.)

d. Senate Bill 773, “Universal License Recognition,” was introduced on May 14<sup>th</sup>. It amends Chapter 93B to add a new section (15.7) which would require any “occupational licensing board” as defined by N.C. Gen Stat. § 93B-1 to issue a license, certification, or registration to any applicant who establishes residency in this State who has been licensed, certified or registered in another state under certain conditions. The Board is defined as an occupational licensing board by N.C. Gen. State. § 93B-1(1) (however, the Private Protective Services Board is defined as a “State agency licensing” Board by N.C. Gen. Stat. § 93B-1(2)).

This bill also would require that Board to list the specific requirements, and all necessary documentation needed to satisfy the requirements, on its website.

A copy was attached as Attachment 4.

**MOTION BY MR. BUFF TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. STICKL; MOTION CARRIED.**

Mr. Cesena introduced NCAPI President, Gregory Hatten.

Mr. Hatten, stated that the NCAPI is currently working on its November 2020 Fall Conference while dealing with the challenge of Covid-19.

**MOTION BY MR. JOHNSON TO ADJOURN; SECONDED BY MS. RABENOLD;  
MOTION CARRIED.**

10:08 A.M. Adjourned

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Paul Sherwin, Director

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Garcia Graham, Board Secretary