

**IDAHO BOARD OF DRINKING WATER AND
WASTEWATER PROFESSIONALS MEETING
Division of Occupational and Professional Licenses
1090 East Watertower Street, Suite 150, Meridian**

MINUTES OF THE FEBRUARY 9, 2022 MEETING

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, but to record the significant features of those discussions.

Chairman Bryson Ellsworth called the meeting to order at 9:00 a.m. (MT)

Board Members:

Bryson Ellsworth, Chairman
Michael Parker
Jerri Henry
Paul Sifford
Stacy Stuart
David Shurtleff - Absent

DOPL Staff Members:

MiChell Bird, Bureau Chief
Michael Hyde, Operations Manager
John Nielson, Executive Officer
Steve Gorski, Investigation Units Manager
Ron Bassett, Board Services Manager
Laura Shankel, Licensing and Registration Manager
Jesama Rosensweig, Licensing Supervisor
Renee Bryant, Board Supervisor
Linda Pratzner, Board Specialist

Legal Counsel

Nick Crema

DOPL Organizational Chart Update

Operations Manager Michael Hyde presented the organizational chart update. The new organizational chart is a combination of 11 agencies and 48 boards merged into one single division. The Building, Construction and Real Estate (BCRE) Bureau has 16 boards. Functions within the Bureau are: Operations, Licensing, Compliance and Investigation and Board Support. There are four Executive Officers, each assigned several boards. John Nielson is the Executive Officer for the Drinking Water and Wastewater Professionals (WWP) and direct liaison to this Board.

Approval of the November 3, 2021 Meeting Minutes

MOTION: Board Member Henry made a motion to approve the November 3, 2021 Meeting Minutes as written. Board Member Parker seconded. All in favor, motion carried.

Set Remainder of 2022, Meeting Dates

The Board agreed to the following meeting dates: May 18, August 3, and November 2, 2022. Board Member Paul Sifford stated the November 2nd board meeting will be his last official meeting as his term ends April 2023. Until a replacement is found he will continue with the board.

Board Business

Water/Wastewater Apprenticeship Program

Shelly Roberts, Idaho Rural Water Association (IRWA), stated the program is up and running and could provide the board with a quarterly report. Board Member Sifford would like to see

an update of the program on future agendas. Ms. Roberts reported there are approximately 30 people in the program and the apprentices, who started a couple of years ago, will be graduating this Spring. They are accepting new enrollees for the cohort starting September 2022. The program is gaining popularity and apprentices are receiving a more robust learning experience. Ms. Roberts will continue to present updates regarding the program's enrollees at future meetings.

Class II and III Apprenticeship Program

Ms. Roberts has had contact with Tim Frost, Deputy Administrator for DOPL and the board about submitting an application for the advanced apprenticeship program this year, but there were errors in the original adoption of the rules when the programs were integrated. Ms. Roberts with the assistance of the Deputy Administrator were able to submit proposed changes to the Legislature through Public Comments.

Conference Attendance Requests

There are two IRWA conferences scheduled for Spring and Fall in 2022 and would like one board member and one DOPL staff member to attend and explain updates on licensing. In addition, the Chairman requested a board member to be on the IRWA Spring Conference panel. The board members agreed the Board Chair and Executive Officer should attend the Spring Conference. There was a motion previously made by the board on the to-do items presented in February 2017.

Subcommittee Report

On January 7, 2022, the subcommittee met and discussed the requirements of the Open Meeting Laws. Nick Krema, General Counsel, sent a link to an open meeting laws presentation by the Attorney General's office to the subcommittee members.

- Universal Code of Ethics for All Licenses – Board Member Jerri Henry stated the subcommittee questioned the code of ethics for operators as there are very few principles that could be applied universally and asked the board how to proceed. The simplest way to do this would be to develop code of ethics for the operators, however, not run it counter to the Zero-Based Regulations (ZBR) rule making. General Counsel Krema suggested exploring how neighboring states address the same regulatory scheme to determine the best way to proceed. Executive Officer Nielsen recommended beginning the ZBR review earlier than the proposed date in 2024. Board Member Henry suggested the easiest way would be to leave the Bureau of Apprenticeship Training (BAT) program intact and create a code of ethics for operators while at the same time looking at the ZBR effort.
- Lagoon License and Classification – There was no discussion on this topic.
- Contractors and Contract Operators/Application Changes – There was no discussion on this topic.

Association of Board of Certification (ABC)

- Contract Renewal – General Counsel Krema stated the Board had not voted on the ABC contract because there were several issues identified in the contract that had not

been resolved. The remaining issue is ABC's limitation of liability and indemnification provisions where ABC allocated all liability and indemnification to the board. Therefore, if there were any liability under the contract this would fall to the board. Legal Counsel Krema has been able to negotiate a mutual indemnification that would not hold ABC liable for anything that arose from our conduct, and vice-versa. ABC is not willing to agree to all conduct, only to willful grossly negligent or fraudulent conduct on their part. It is up to the board to agree to these terms. There may be people who challenge the validity of the liability of the examination, but the risk is relatively low. This is the first time General Counsel Krema has reviewed the contract; however, the board has approved this contract in the past.

MOTION: Board Member Henry made a motion the Board Chair have authorization to sign the renewal of the ABC contract. Board Member Sifford seconded. All in favor, motion carried.

Discuss Exam Process

At the last board meeting, Chairman Ellsworth discussed utilizing a subcompany from ABC to administer testing. Executive Officer Nielsen stated DOPL would try to send in test rosters more than once a month and try to get it to once a week. The board is fine with DOPL reapproving the exam, provided there have been no changes to the original application and it has not expired. Chairman Ellsworth mentioned this was approved in 2018.

Discuss Endorsement Application Process

At the last meeting, the board adopted the American Water Works Association (AWWA) flowchart to be posted on DOPL's website. Chairman Ellsworth noticed the flowchart is not posted and asked copies to be given to applicants from California until the flowchart is on the website. Board Member Michael Parker mentioned he struggles with state endorsements. The current state rule requires the applicant to provide the required documents, which include a copy of the current regulations from each jurisdiction from where the applicant obtains licensure. DOPL is not receiving those regulations with their endorsements. There needs to be a clear process for the board and applicant. Currently, the AWWA licensure flowchart is used as a ruling guide. There will be a newer version coming out, but in California the certifications vary.

Application Process/Delegated Authority

Chairman Ellsworth stated the board granted Backflow Assembly Tester (BAT) and OAT applicants to be approved for exam by DOPL staff if no felony or discipline is present. The rules state the board can delegate to DOPL staff but does not specify what can be delegated. Board Member Parker suggested the subcommittee be tasked with finding out what can be delegated to DOPL. Executive Officer Nielsen would like to be involved with the subcommittee to ensure the licensing staff can make this work. Board Member Henry requested a list of delegations. General Counsel Krema recommended for DOPL to come up with delegations and present to the board at a future meeting in lieu of giving this task to the subcommittee.

Investigations, and Discipline and Licensing-Application Review

Complaint Memorandum

Investigation Units Manager Steve Gorski stated there were no complaints to review.

Motion to Go into Executive Session

MOTION: Board Member Henry made a motion the Board enter executive session under Idaho Code § 74-206 (1) (d) to consider records that are exempt from disclosure under the Public Records Act, Idaho Code § 74-106 (9). The purpose of the executive session will be to discuss documents relating to the fitness of an applicant to be granted a license or registration. Board Member Parker seconded. Roll Call: Bryson Ellsworth-yes, Michael Parker-yes, Jerri Henry-yes, Paul Sifford-yes, and Stacy Stewart-yes. All in favor, motion carried.

Motion to Come Out of Executive Session

MOTION: Board Member Parker made a motion come out of Executive Session. Board Member Sifford seconded. All in favor, motion carried.

Licensing-Application Review

WWPA-24774

Board Member Parker made a motion to pend application WWPA-24774 pending the board receive an accurate account of onsite operating experience or substitution of education for experience. Board Member Sifford seconded. All in favor, motion carried.

WWPA-24864

Board Member Parker made a motion to approve application WWPA-24864 as submitted. Board Member Henry seconded. All in favor, motion carried.

WWPA-25016

Board Member Parker made a motion for application WWPA-25016, whereas the applicant needs to submit verifying information regarding the system classification for Sacred Heart Hospital and provide explanation or substitution information for his wastewater experience. Board Member Henry seconded. All in favor, motion carried.

WWPA-25028

Board Member Parker made a motion regarding application WWPA-25028 that the applicant for endorsement is approved for a Class 1 Collections. Board Member Sifford seconded. All in favor, motion carried.

WWPA-25029

Board Member Parker made a motion regarding application WWPA-25029, whereas the applicant will need to apply for his level 1 exam on an endorsement application. Board Member Stuart seconded. All in favor, motion carried.

Division Business

Financial Report – The finance team is working on the board’s report and should be completed before the next board meeting. Board Member Parker requested the financial report be posted on the secure website for review.


To Do List – Executive Officer Nielsen requested input from the board regarding the To Do List. Chairman Ellsworth stated the list was to keep track of topics; however, can be archived moving forward. Executive Officer Nielson recommended contacting him regarding topics to be on the agenda. Board Member Sifford thanked Executive Officer Nielsen for all his efforts in calling operators back and helping the board. Chairman Ellsworth is looking forward to working with Executive Officer Nielsen.

Adjournment

MOTION: Board Member Sifford made a motion to adjourn the meeting. Board Member Stuart seconded.

The meeting adjourned at 11:13 a.m. (MT)

BDE
BRYSON ELLSWORTH, CHAIRMAN
DRINKING WATER & WASTEWATER
PROFESSIONALS BOARD


JOHN NIELSEN, EXECUTIVE OFFICER
DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSES

6/2/2022
DATE

6/2/2022
DATE

**These minutes are subject to possible correction and final approval by the Board. 06/02/2022lp*