



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
FEBRUARY 18, 2016
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, Jr.
William MacRae
Steve Johnson
Brian Lowman
Nada Lawrimore
Bud Cesena
Dustin Greene
Larry Proctor

BOARD MEMBERS ABSENT

STAFF PRESENT

Barry Echols – Director
Donald Foster – Deputy Director
Phillip Stephenson - Field Services Supervisor
Jeff Gray - Attorney
Melvin Turner - Investigator
Nan Williams – ASLB Board Secretary
Administrative Secretary – Michelle Moore

GUEST PRESENT

Audra Coleman
Floyd Greenwood
Jeff Kiker

Ruth Reynolds
Mark Greenwood
Timothy Jones

Lisa Tuney
J.D Pitman
James Solmon

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Guest Present Continued.

Billy Crawford
Suzanne Creech
David Kaiser
Keith Hollen
Larry Flannery
Timothy W. Saunooke
Bernard Cotton
Gary Pastor
Frederick Stipe
Rick Shaffer
Victoria Stroud
R D Cvjetnicanin

Kevin Tibbits
Randall Harrison
Kathy Broom
Bill Fletcher
Paul Schroll
Melvin Black
Edie Robinson
David Petrie
James Petrie
John Melki
Hollie Trivette
Gregory Bentley

Chris Mayhue
Jeff Cathcart
WM Pylypiw
Aundra France
David Roebuck
Michael Pitchford
Clifford Lewin
Robert J. Dunn
Dorian Dehnel
Timothy Conterras
Mack Donaldson

CALL TO ORDER

Chairman Eric Weaver called the February 18, 2016 Private Protective Services Board meeting to order at 9:30 a.m. Chairman Weaver requested that Mr. Benson lead the group in the reciting of the Pledge of Allegiance followed by Mr. Weaver introducing new Board member Larry Proctor.

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, greeted the Board and all of the guests. Mr. Pastor stated that the association is currently working on many projects including the NCAPI 2016 fall conference. He also stated that they plan to attend the short session beginning in the late Spring and are looking into possibility having one of their members being registered as a lobbyist to be able to advocate in the legislative session. Mr. Pastor stated that a representative from Virginia and Seattle, Washington were in the audience. We hope to work together as a group to become more professionalism in the industry.

Mr. Pastor asked everyone to check out the NCAPI's new website and make sure your information is up to date. He also reminded everyone that the association would be holding their meeting after the conclusion of the PPS Board meeting.

Mr. Cobbler asked Mr. Pastor about 501(C) (3) status for the association. Mr. Pastor replied that he is currently working on it.

MINUTES:

APPROVAL OF THE DECEMBER 17, 2015 BOARD MEETING MINUTES

MOTION BY MR. BENSON TO ACCEPT THE MINUTES; SECONDED BY MR. COBBLER; MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. Benson reported that the Screening Committee met on Wednesday, February 17, 2016, from 1:30 p.m. to 4:50 p.m. to review a total of 38 applications. (See report). The committee members were Mr. Benson, Mr. Cobbler, Mr. MacRae, Mr. Arndt and Mr. Lowman. Mr. Benson read the report for the record. (See attachment)

It was noted Mr. Cesena recused himself from #23 of the screening report.

It was noted that Mr. MacRae recused himself from #4 & 5 of the screening report.

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

Mr. Benson presented the following registration report for the period of December 16, 2015 to February 16, 2016. Total registrations 3694; armed totals were 564 of which 153 were new and 286 were renewals, and 125 reissue/dual. There were a total of 74 Armed Armored Car, 33 of which were new, 40 renewals and 1 reissue/dual. There were a total of 13 Armed Private Investigators, 6 of which were new, 6 renewals and 1 reissue/dual. There were a total of 3 Armed Private Investigator Associates, 2 of which was new and 1 reissue/dual. Unarmed totals were 3,019 which included 1070 new, 1724 renewals, 204 transfers, 20 duplicates and 1 reissue/dual. There were a total of 21 unarmed armored cars, 7 of which were new and 14 renewals. Total denials were 785 of which 210 were for cause and 575 for correctable reasons. There were 550 applications approved which were previously denied for a total of 1335 denials reviewed.

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

GRIEVANCE COMMITTEE REPORT:

Mr. Greene reported that the Grievance Committee met on Wednesday, February 17, 2016 from 8:00 a.m. to 10:00 a.m. and heard a total of seven cases. The committee members were Mr. Greene, Mr. Cook, Ms. Lawrimore, Mr. Fletcher and Mr. Epley. Mr. Cook read the report for the record. (See attachment)

It was noted that Mr. MacRae recused himself from case #2015-PPS-024 of the Grievance report.

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

TRAINING & EDUCATION COMMITTEE:

Mr. MacRae reported that the Training & Education Committee met on February 17, 2016 from 8:00 a.m. until 9:05 a.m. The committee members were Mr. Johnson, Mr. Epley, Mr. Cook, Mr. Arndt and Mr. Cobbler.

February 29, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
March 14-18, 2016	(0800-1700) UAGT Course & Workshop at WTCC
March 28, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
April 4-8, 2016	FT Course & Legal Class at Salemburg NCJA
May 2-6, 2016	(0800-1700) UAGT Course & Workshop at WTCC
June 6, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
July 11, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
August 1-5, 2016	(0800-1700) UAGT Course & Workshop at WTCC
September 7, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA

September 12-16, 2016	(1000-2300) FT Course & Legal Class at Salemburg NCJA
September 26-30, 2016	(0800-1700) UAGT Course & Workshop at WTCC
November 14, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
November 28 – December 2, 2016	(0800-1700) UAGT Course & Workshop at WTCC

Presently we have 361 certified PPS unarmed guard trainers and 114 PPS certified armed guard trainers.

The following PPS Training Courses have been completed:

February 8-12, 2016	(0800-1700) UAGT Course & Workshop at WTCC (rescheduled from original date of January 25-29, 2016 – course cancelled due to inclement weather)
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The following PPS Training Courses for CEU Credits are scheduled:

February 18, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
April 21, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
August 25, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
December 15, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC

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

Mr. Turner stated that the committee discussed one weapon discharge by an armed registrant since the last Board meeting which involved Mr. Trey Mitchell with Gate City Security Agency, Inc. Upon entering the bathroom for break, he proceeded to unholster his weapon per previous training. Upon completion of using the facilities he gathered his belongings and prepared to holster his duty weapon and his fingers slipped, which caused him to accidentally pull the trigger and resulted in an accidental discharge of his weapon. There are no issues with this officer and staff advised Gate City not to allow the employee to work armed until this matter went before the Board. The Committee decided to remove the temporary work prohibition on Mr. Mitchell.

Mr. MacRae stated that they also discussed the current status of the unarmed guard training course and asked Mr. Turner to arrange additional meetings with the subcommittee to review the initial draft. There was a discussion concerning the newly approved rifle and the committee has

requested that Chad Thompson, PPS Firearm Instructor at the NC Justice Academy in Salemburg, prepared a manual for PPS. Once the manual is complete, a subcommittee will review and report back to Board.

Mr. MacRae stated the following four (4) continuing education training courses have been submitted for approval: How to prepare outline and write investigation reports for insurance companies, attorneys, civil cases, criminal cases, court testimony and investigator ethics (12 hours); Ethics for Legal Professionals: Theory and Practice (2 hours); Rules of Service: Sabbath Law (2 hours); C.A.R.E Interviewing Certification Course (12 hours).

MOTION BY MR. GREENE TO ACCEPT THE TRAINING AND EDUCATION COMMITTEE REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

GRIEVANCE COMMITTEE:

NONE

SCREENING COMMITTEE:

NONE

LAWS AND RULES COMMITTEE

Nada Lawrimore stated that they discussed armed applicants and Mr. MacRae is to develop a plan for drug screening for the industry. Also a discussion was held to respond to a request by DPS's legislative liaison to prioritize the provisions in House Bill 299, which is currently pending in the legislative. The committee did so as follows:

1. Authority to conduct investigations regarding unlicensed activity and, with the concurrence of the Secretary of Public Safety, issue cease and desist letter.
2. Authority to adopt rules establishing standards for the use of any firearm or other weapon approved by the Board.
3. Authority to adopt and publish a code of professional conduct for licensees, registrants or permit holders, the violation of which shall be grounds to suspend or revoke pursuant to G.S. 74C-12.

4. Authorize the PPS Board to suspend or revoke a trainee's certification if it determines that the trainee made a false statement in connection with the application for certification or for renewal or reinstatement of certification
5. Require a proprietary security organization that employs an armed security guard to apply to the PPS Board for a license and to renew its license every two years.
6. Require that a security guard must be registered to carry a firearm in an assembly or establishment where alcoholic beverages are sold and consumed. GS 14-269.3 (a) (4)
7. Authority to acquire, maintain, store, dispose of, and replace motor vehicles for the use of staff and investigators.
8. Authority to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State, with collateral pledged by the Board for an encumbrance being limited to the assets, income, and revenues of the Board.
9. Authorize the PPS Board to assess a late fee against any applicant that fails to pay the required initial license fee and make the required payment to the Private Protective Services Education Fund within 90 days after receiving notice of pending licensure approval. The PPS Board would have discretion to grant an additional 30 days to make these payments for good cause upon petition by the applicant.
10. Authorize the PPS Board to assess a late fee of up to \$100 against any licensed business entity that failed to obtain a substitute qualifying agent within the time required and against any license applicant who failed to pay the initial license fee or make the required contribution to the Private Protective Services Education Fund within the time required, and authorize the PPS Board to extend the time for a licensee, trainee or registrant to complete the renewal application requirements by up to 90 days if supported by documentation that the extension is needed because of a physical disability or medical condition. Such information provided to the PPS Board to document the applicant's physical disability or medical record would not be a public record.
11. Repeal GC 74C-10 (a) through (d) and add "Trainee" in (e).
12. Require that if the business entity maintains a physical presence in the State, the qualifying agent must be a resident of the State. GS 74D-2 (C)1
13. Amend 74D-3 (4) by eliminating, "(4) An alarm monitoring company located in another state which demonstrates to the Board's satisfaction that it does not

conduct any business through a personal representative present in this State but which solicits and conducts business solely through interstate communication facilities such as telephone messages, earth satellite relay stations and the United States postal service; and”

14. Authorize the Alarm Systems Licensing Board to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, with the approval of the Governor and the Council of State. Property pledged as collateral for an encumbrance would be limited to the assets, income and revenues of the Alarm Systems Licensing Board.

MOTION BY MR. MACRAE TO ACCEPT THE LAW AND RULES COMMITTEE'S REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.

FINANCE REPORT:

Mr. Weaver states that Bill Fletcher will be chairman for the Finance Committee and will be assisted by Bill MacRae and Brian Lowman, and in so doing switch Brian Lowman from the Training & Education Committee.

ETHICS COMMITTEE

Mr. Lowman stated that he is pleased to report that everyone is in compliance. There are three members whose training is due Mr. Epley in September, Mr. Weaver in October and Mr. Lowman's in November.

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

OLD BUSINESS:

NONE

NEW BUSINESS

Mr. Arndt talked about the three day meeting in October and requested to move some of the committee meetings on Tuesday after the Grievance.

MOTION BY MR. ARNDT TO MOVE THE LAW AND RULES COMMITTEE MEETING TO TUESDAY AFTERNOON SINCE IT IS A THREE DAY MEETING IN OCTOBER; SECONDED BY MR. MACRAE; MOTION CARRIED.

MOTION BY MR. ARNDT TO HAVE THE TRAINING & EDUCATION COMMITTEE AT 8:00 AM AND TO MOVE THE BOARD MEETING FROM 9:00 AM TO 9:30 AM ; SECONDED BY MR. CESENA; MOTION CARRIED.

BREAK: 10:35 a.m.
RECONVENED: 10: 50 a.m.

FINAL AGENCY DECISION

Michael Ross Pitchford - 15 DOJ4293. Mr. Pitchford was present. This case was heard by Administrative Law Judge Hon. J. Randolph Ward, on July 28, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of temperate habits as evidenced by a conviction for felony Obtaining Property by False Pretenses and a conviction for misdemeanor Larceny, as well as multiple convictions of Driving While License Revoked.

MOTION BY MR. BENSON TO UPHOLD THE BOARD'S INITIAL DECISION AND DENY MR. PITCHFORD'S UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. COOK; MOTION CARRIED.

Timothy T. J. Conterras - 15 DOJ5300. Mr. Conterras was present. This case was heard by Administrative Law Judge Phil Berger, Jr., on August 25, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and temperate habits as demonstrated by petitioner's criminal record.

MOTION BY MR. BENSON TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MR. CONTERRAS HIS UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. COOK; MOTION CARRIED.

John Paul Melki - 15 DOJ3983. Mr. Melki was present. This case was heard by Administrative Law Judge Phil Berger Jr., on August 25, 2015. This case involved the denial of the petitioner's armed guard registration based on lack of good moral character and demonstration of temperate habits as evidenced by a conviction of Assault on a Female.

MOTION BY MR. COBBLER TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MR. MELKI HIS ARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. EPLEY; MOTION CARRIED.

Aundra Lynn France - 15 DOJ05833. Ms. France was present. This case was heard by Administrative Law Judge Randall May, on September 25, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of temperate habits as evidenced by a conviction for misdemeanor Simple Assault.

MOTION BY MR. CESENA TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MS. FRANCE HER UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. COBBLER; MOTION CARRIED.

Mario Da'Shawn Cotton - 15 DOJ05959. Mr. Cotton was not present. This case was heard by Administrative Law Judge Randall May, on September 25, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of temperate habits as evidenced by a conviction for misdemeanor Assault on a Female.

MOTION BY MR. BENSON TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MR. COTTON HIS UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. CESENA; MOTION CARRIED.

Attorney Gray asked the Board if he can send an individual a copy of his e-mail to prove that we have been in contact with him since he has filed a complaint last year.

MOTION BY MR. BENSON TO NOT WAIVE THE ATTORNEY CLIENT PRIVILEGE; SECONDED BY MR. CESENA; MOTION CARRIED.

The Board recommended to have the individual's attorney to contact Attorney Gray directly.

DIRECTOR'S REPORT:

Mr. Echols introduced Donald Foster as the new Deputy Director and two new investigators George Daniels and Ronnie Broadwell. He also welcomed Larry Proctor as a new Board member.

Director Barry Echols read the report for the record. The current PPS budget as of November 30, 2015, has a balance of \$1,240,328.84; the Education Fund balance is \$75,725.88. As of November 30, 2015, the total registrations for PPS is 19,382: 1,804 licensees and 576 certifications.

Mr. Echols reported that there have been a total of 2,707 various correspondences printed from the PPS database, 4,275 registration cards have been printed and a total of 5,348 applications received since the last Board meeting.

Mr. Echols stated he expected to fill Maia's position soon. The scanning project will be going to the State Purchasing and he will copy both Board chairmen regarding the cost. The project may start in March along with the new computer system. He also stated that he is still looking at property and that we can stay at our current building but the rent may go up.

MOTION BY MR. GREENE TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. MACRAE; MOTION CARRIED.

ATTORNEY'S REPORT:

Attorney Gray explained to the Board that it is starting back negotiating consent agreements using the same formula.

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Donald Frank Talley and North State Security, Inc. – on December 17, 2015 the Private Protective Services Board voted to enter into consent agreement with Mr. Talley in the amount of \$1,836.00 for registration violations. Payment has not been received.

II. OFFICE OF ADMINISTRATIVE HEARINGS

The schedule of hearings in the Office Administrative Hearings is attached to the Attorney's Report. (*See*, attachment 1.)

III. RULES

1. Amendments to 14B NCAC 16 .0807, .0809, .0901 and .0904 to approve a rifle as an authorized firearm to be carried by armed security guards upon training and registration were approved by the Rule Review Commission at its January 2016 meeting.

A copy of these rule amendments, as they will be published in the North Carolina Administrative Code, are attached. (See attachment rules 2) These rules cannot be implemented until the actual course is approved by the Board and Secretary of Public Safety.

IV. LEGISLATION

- I. 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 25, 2016.

- II. 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."

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 filed the Board's Brief with the Fourth Circuit Court of Appeals on November 13, 2015.

There has been no other action on this case since that time.

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

PUBLIC COMMENT:

NONE

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

12: 20 P.M. Adjourned

Barry Echols, Director

Nan Williams, ASLB Board Secretary