

RULES REVIEW COMMISSION MEETING
MINUTES
April 30, 2024

The Rules Review Commission met on Tuesday, April 30, 2024, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Wayne R. Boyles III, Jeanette Doran, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell were present in the Commission Room. Commissioners Jeff Hyde, Barbara Jackson, and Brandon Leebrick were present via WebEx.

Staff member Alexander Burgos, Commission Counsel Seth Ascher, Brian Liebman, Bill Peaslee, and Travis Wiggs were present in the room.

The meeting was called to order at 10:00 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow-up matters and permanent rules from the Building Code Council and permanent rules from the Wildlife Resources Commission.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the March 27, 2024 meeting. Commissioner Parker noted a typographical error on page 2 under the permanent rules for the State Board of Elections where the word "error" was missing. The missing text was added to the minutes and the minutes were approved as amended.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

The Chair asked for any discussion, comments, or corrections concerning the minutes of the April 8, 2024 special meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

FOLLOW UP MATTERS

Home Inspector Licensure Board

11 NCAC 08 .1101, .1103, .1105, .1107, .1109, .1110, and .1116 - The Commission extended the period of review for these Rules at the March meeting. No action was required by the Commission.

Criminal Justice Education and Training Standards Commission

12 NCAC 09F .0103, .0104, and .0105 – The Commission objected to these Rules at the February special meeting. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .0507, .0508, .0509; 07I .0702; 07J .0203, .0204, .0206, .0207, .0208; 07M .0401, .0402, .0403, .0701, .0703, .0704, and .1101 - The Commission objected to these Rules at the April 8, 2024 special meeting. No action was required by the Commission.

State Board of Education

16 NCAC 06C .0602 - The Commission objected to this rule at the March meeting. No action was required by the Commission.

Board of Examiners in Optometry

21 NCAC 42D .0102 - At the January 2024 meeting, the Commission found that the revised rule satisfied the RRC's objection at the November 2023 meeting; however, it also determined that the revised rule was a substantial change and will need to be published and reviewed pursuant to G.S. 150B-21.2(g). This Rule will remain on the agenda until it is published. No action was required by the Commission.

Board of Examiners for Engineers and Surveyors

Upon the call of the Chair, 21 NCAC 56 .0502 and .0701 was approved by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Building Code Council

Upon the call of the Chair, the Commission voted to object to Section R402 and Appendix R1.2.1 of the 2024 North Carolina Energy Conservation Code, for lack of statutory authority and approve the remaining sections of the 2024 North Carolina Energy Conservation Code by roll-call vote, ayes 5, noes 3 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Bill Nelson, Randy Overton and Jake Parker – 5. Voting in the negative: Barbara Jackson, Brandon Leebrick, and Paul Powell - 3.

The Commission voted to waive rule 26 NCAC 05 .0112 to allow additional public comments from Dan Tigen of Tingen Construction by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

In accordance with G.S. 150B-21.3(b2), the Commission received over ten letters of objection requesting legislative review and a delayed effective date for The 2024 North Carolina Energy Conservation Code.

Cliff Isaac with the North Carolina Home Builders Association addressed the Commission.

Nathan Childs with the Department of Justice, representing the agency, addressed the Commission.

Building Code Council

Upon the call of the Chair, the Commission voted to approve the 2024 North Carolina Fuel Gas Code by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Building Code Council

Upon the call of the Chair, the Commission voted to approve the 2024 North Carolina Mechanical Code by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

LOG OF FILINGS (PERMANENT RULES)

Radiation Protection Commission

Upon the call of the Chair, the Commission voted to approve 10A NCAC 15 .0301, .0302, .0303, .0304, .0305, .0307, .0308, .0309, .0310, .0312, .0314, .0315, .0317, .0318, .0319, .0320, .0321, .0322, .0324, .0327, .0328, .0329, .0330, .0331, .0332, .0333, .0334, .0335, .0337, .0338, .0339, .0340, .0341, .0342, .0343, .0344, .0348, .0351, .0352, .0353, .0354, .0355, .0356, .0357, .0358, .0359, .0360, .0361, .0362, .0363, .0364, .0365, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0511, .0512, .0513, .0514, .0515, .0516, .0517, .0519, .0520, .0521, .0522, .0523, .0524, .0525, .0701, and .0702 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

DHHS - Division of and Commission for Mental Health/DD/SAS - Commission for Mental Health/DD/SAS

Prior to the review of rules from the DHHS - Division of and Commission for Mental Health/DD/SAS - Commission for Mental Health/DD/SAS, Commissioner Leebrick recused himself and did not participate in any discussion or vote concerning the rules because of a conflict of interest

Upon the call of the Chair, the Commission voted to approve 10A NCAC 27G .7004; 27I .0601, .0602, .0605, .0606, .0607, .0608, .0609; and 28F .0101 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 7. Voting in the negative: None.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the Commission voted to approve 12 NCAC 09C .0307 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Department of Labor

Prior to the review of rules from the Department of Labor, Commissioner Jackson recused herself and did not participate in any discussion or vote concerning the rule because of a conflict of interest.

Upon the call of the Chair, the Commission voted to approve 13 NCAC 15 .0703 by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 7. Voting in the negative: None.

Wildlife Resources Commission

Prior to the review of rules from the Wildlife Resources Commission, Commissioner Parker recused himself and did not participate in any discussion or vote concerning these Rules because of a conflict of interest.

Upon the call of the Chair, the Commission voted to approve 15A NCAC 10A .0501, .0502, .0503, .1301, .1302, .1303; 10B .0114, .0202, .0203, .0211, .0223; 10C .0205, .0208, .0305, .0306, .0307, .0313, .0314, .0316, .0801, .0802; 10D .0103, .0215, .0216, .0225, .0233, .0245, .0251, .0256, .0283, .0293, .0294; 10E .0101, .0102, .0103, .0104; 10H .0101, .0102, .0105, .0109, .0901, .0904, .0905, .0906, .1505, .1510, .1701 and .1702 by roll-call vote, ayes 6, noes 1 as follows: Voting in the affirmative: Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, and Paul Powell – 6. Voting in the negative: Wayne R. Boyles III: 1.

In accordance with G.S. 150B-21.3(b2), the Commission received over ten letters of objection requesting legislative review and a delayed effective date for 15A NCAC 10B .0202; 15A NCAC 10C .0801, and 15A NCAC 10C .0802.

Board of Pharmacy

Upon the call of the Chair, the Commission voted to approve 21 NCAC 46 .1613 by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Building Code Council - 2024 NC Administrative Code

Upon the call of the Chair, the Commission voted to approve Sections 107.1.5, 204.4.5, 204.4.5.1, and Appendix H of the 2024 NC Administrative Code and Policies by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Building Code Council - 2024 NC Mechanical Code

Upon the call of the Chair, the Commission voted to approve Sections 1101, 1103, 1104, 1106, 1107, 1109, 1110, and Chapter 15 of the 2024 NC Mechanical Code by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Building Code Council - 2024 NC Building Code

Upon the call of the Chair, the Commission voted to extend the period of review for the 2024 NC Building Code and separately filed amendments to Sections 101.2, 202, 307, 414, 1109.2, 1901, and Chapter 35 of the 2024 NC Building Code by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Building Code Council - 2024 NC Plumbing Code

The agency withdrew the proposed amendments to Sections 702 and 1102 of the 2024 NC Plumbing Code. No action was required by the Commission.

Building Code Council - 2024 NC Existing Building Code

Upon the call of the Chair, the Commission voted to extend the period of review for the 2024 NC Existing Building Code and separately filed amendments to Sections 101.2 and 803.2.1.2 of the 2024 NC Existing Building Code by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

Building Code Council - 2024 NC Energy Conservation Code

Upon the call of the Chair, the Commission voted to approve Sections C101.2 and R101.2 of the 2024 North Carolina Energy Conservation by roll-call vote, ayes 5, noes 3 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Bill Nelson, Randy Overton and Jake Parker – 5. Voting in the negative: Barbara Jackson, Brandon Leebrick, and Paul Powell - 3.

Cliff Isaac with the North Carolina Home Builders Association addressed the Commission.

Nathan Childs with the Department of Justice, representing the agency, addressed the Commission.

Building Code Council - 2024 NC Fire Code

Upon the call of the Chair, the Commission voted to extend the period of review for the 2024 NC Fire Code and separately filed amendments to Sections 102.13, 105.5.32, 202, 203, 319.11.1, 319.11.13, 608, 911, 907.2.3.1, 1010.2.14, 1010.2.14.4, 1010.2.1, 3307, 5003, 5706.5.4.5, Chapter 80, and NFPA 241 of the 2024 NC Fire Code by roll-call vote, ayes 8, noes 0 as follows: Voting in the

affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

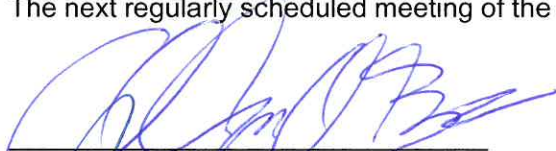
COMMISSION BUSINESS

Upon the call of the Chair, the Commission voted to adopt changes to 26 NCAC 05 .0107, .0108, and .0115 and submit the rules for publication in the NC Register by roll-call vote, ayes 8, noes 0 as follows: Voting in the affirmative: Wayne R. Boyles III, Jeff Hyde, Barbara Jackson, Brandon Leebrick, Bill Nelson, Randy Overton, Jake Parker, and Paul Powell – 8. Voting in the negative: None.

The Chair announced that there are no updates regarding the CRC v. RRC litigation; therefore, the Chair did not call the meeting into a closed session.

The meeting was adjourned at 11:23 a.m.

The next regularly scheduled meeting of the Commission is Wednesday, May 29, 2024, at 10:00 a.m.



Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

April 30, 2024

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Jim Williams	Sec of State
Chris Kreh	NC Wildlife Resource Comm.
Gunn VanDyke	NC DOT - HRLB
Kyle Heuser	NC DOT - OSFM
Nathan Collier	NCDC - ABCBCC
Christian Waters	NC Wildlife Resources Comm.
Carrie Ruhlman	NC Wildlife Resources Comm.
Melissa Barnes	NC Wildlife Resources Comm.
Regina Kussinger	NC Radiation Protection
Debbie Baker	NC DMH/DCSAS
Don Clary	NC RPS
ANAL ELLIOTT	SOENR
Kerry Boehm	NC DOT
Wes Tripp	NC Bd of Exm's for Eng'g ^{Surveyors}
Cliff Isaac	NC HBA
Jill Cramer	NCDOC
Sophia Platt	NCDOC
Elizabeth Pope	NC SWCLB

Via WebEx

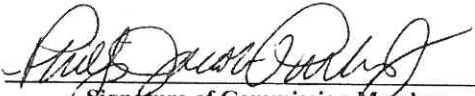
Name	Agency
Kathryn Whalen	DOI
Julie Ventaloro	OSBM
Jennifer Everett	DEQ
Emily Jones	DOT
Angela Willis	DEQ
Daniel Govoni	DEQ
Rachel Love-Adrick	DEQ
Tancred Miller	DEQ
Louis Brayboy	DHHS
James Albright	DHHS
Karen Holder	DOI
Dana McGhee	OAH
Ashley Snyder	OAH
Glenda Artis	DHHS
Helen Landi	HNTB.COM
Julie Youngman	SELNC
Tracy Phillips	CITYOFWS.ORG
Meghan Cook	NCFB
Cora Houston	NCBELS
Carmine Plott	NOVANTHEALTH.ORG
Laura Rowe	TREASURER
Anne Coan	NCFB
Michelle Schilling	DOJ
Dauna Bartley	DENTAL
Grace Linthicum	DOJ
John Branch	BAKERDONELSON.COM
Catherine Blum	DEQ
Seavers, Dennis	BARBERS
Carla Rose	LABOR
Kyle Briggs	WRC
Roger Sit	UNC
Mike Morton	CITYOFWSFIRE.ORG
Jennifer Allen	NCCOAST.ORG
Aranda Cobb	DACNC
Misty Piekaar	DHHS
Jeff Vernon	MECKLENBURGCOUNTYNC.GOV
Johnson, Daniel H	DOT

MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding Item IV.5.

I have abstained because of the potential for a
conflict of interest.

This the 30th day of April, 2024.



Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member of the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.

MEMORANDUM OF ABSTENTION FROM
PARTICIPATION IN OFFICIAL ACTION
RULES REVIEW COMMISSION

In accordance with N.C. General Statute G.S. 138A-15(e), I have abstained from taking any verbal or written action, including voting, on the agenda item regarding

IV. 2 DHHS - Division of and Commission for Mental Health /DO/MS.

I have abstained because potential conflict of interest.

This the 30th day of April, 2024.



Signature of Commission Member

No public servant authorized to perform an official action requiring the exercise of discretion shall knowingly participate in an official action by the board if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated has an economic interest in, or a reasonably foreseeable benefit from, the matter under consideration, which would impair the public servant's independence of judgment or from which it could be reasonably inferred that the interest or benefit would influence the public servant's participation. A potential benefit includes a detriment to a business competitor or (1) the public servant; (2) a member of the public servant's extended family, or (3) a business with which the public servant is associated. The public servant shall abstain from taking any verbal or written action and shall submit in writing to the board the reasons for the abstention.