

**RULES REVIEW COMMISSION MEETING
MINUTES
September 18, 2014**

The Rules Review Commission met on Thursday, September 18, 2014, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jay Hemphill, Jeff Hyde, Stephanie Simpson, Ralph Walker, and Faylene Whitaker.

Staff members present were: Commission counsels Abigail Hammond, Amber Cronk May, and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana Vojtko.

The meeting was called to order at 10:01 a.m. with Chairman Currin presiding.

Chairman Currin read the notice required by NCGS 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts.

Commissioner Walker introduced Chief Justice Mark Martin of the North Carolina Supreme Court.

Chief Justice Martin addressed the Commission.

Chairman Currin introduced Campbell Law School student Teagan Humphries.

APPROVAL OF MINUTES

Chairman Currin asked for any discussion, comments, or corrections concerning the minutes of the August 21, 2014 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

Department of Public Safety – 14B NCAC 07A .0116. The rule was unanimously approved.

Dental Examiners, Board of – 21 NCAC 16D .0104, .0106; 16E 0103, .0104.

The agency did not respond in accordance with G.S. 150B-21.12. Therefore, there was no action for the Commission to take at the meeting.

LOG OF FILINGS (PERMANENT RULES)

Office of the Commissioner of Banks

All rules were unanimously approved.

State Board of Elections

All rules were unanimously approved.

Commissioner of Insurance

All rules were unanimously approved.

Coastal Resources Commission

All rules were unanimously approved.

Department of Transportation

All rules were unanimously approved.

Board of Podiatry Examiners

All rules were unanimously approved.

Respiratory Care Board

All rules were unanimously approved.

TEMPORARY RULES

Building Code Council

Prior to the review of the rules, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rules because of a possible conflict with her husband's law firm.

Brandon Truman, with the Attorney General's office on behalf of the agency, addressed the Commission.

Dan Tingen and Barry Gupton with the agency addressed the Commission.

Robert Privott of the North Carolina Home Builders Association addressed the Commission.

Mitchell Armbruster of the Smith Anderson Law Firm addressed the Commission.

The Commission declined to approve the temporary rules in accordance with G.S. 150B-21.1(b). The Commission found the Building Code Council did not meet the requirements for temporary rules as set forth in G.S. 150B-21.1(a), as the Council failed to state a serious and unforeseen threat to the public health, safety, or welfare in its statement of the Findings of Need.

In addition, the Rules Review Commission objected to the proposed temporary rules in the Energy Conservation Code, Tables 402.1.1, 402.1.3, and Rules 402.3.5 and 402.5, as well as the Residential Code, Tables N1102.1, N1102.1.2, and Rules N1102.3.5 and N1102.5 based upon ambiguity. The Commission found the language allowing a permit holder to deviate from the standards based upon safety concerns of the specific individual without any guidance in the rules did not set clear standards in those Codes.

Pursuant to G.S. 150B-21.1(b2) and at the request of the Council, the rules were returned to the Council on September 22, 2014.

EXISTING RULES REVIEW

Seafood Industrial Park Authority

The agency did not conduct the review and all rules contained in the report expired on September 18, 2014 pursuant to G.S. 150B-21.3A(d). No action was required by the Commission.

Department of Environment and Natural Resources

15A NCAC 01A – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 01S – The Commission unanimously approved the report as submitted by the agency.

Secretary of State

18 NCAC 03 – The Commission unanimously approved the report as submitted by the agency.

18 NCAC 05 – The Commission unanimously approved the report as submitted by the agency.

Ann Wall with the agency addressed the Commission.

Acupuncture Licensing Board

The Commission unanimously approved the report as submitted by the agency.

Board of Massage and Bodywork Therapy

The Commission approved the report as submitted by the agency, with Commissioner Dunklin opposed.

Board of Optometry

The Commission rescheduled the review of this report to March 2015 at its August 2014 meeting. Therefore, there was no action for the Commission to take at the meeting.

Examiners of Fee-Based Practicing Pastoral Counselors

The Board requested a waiver of Rules 26 NCAC 05 .0203 and .0211.

The Commission approved the waiver request, with Commissioners Doran and Hyde opposed.

John Arey and Lee Dukes with the agency addressed the Commission.

The Commission rescheduled the date of review for the report pursuant to Rule 26 NCAC 05 .0204. The Commission will review the Board's report at its February 2016 meeting.

Department of Commerce

As this report was not scheduled for review at the September meeting, it was reviewed at the end of the regularly scheduled business.

The Board requested a waiver of Rule 26 NCACC 05 .0203 for a six day extension to the filing deadline of the report for review at the October 2014 meeting.

The Commission approved the waiver, with Commissioner Dunklin and Commissioner Doran opposed.

COMMISSION BUSINESS

The Commission discussed holding a special meeting in December in order to consider the proposed rules of the Mining and Energy Commission.

The meeting adjourned at 12:31 p.m.

The next regularly scheduled meeting of the Commission is Thursday, October 16th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings /Rules Division.

Respectfully Submitted,

Alexander Burgos
Paralegal

Minutes approved by the Rules Review Commission:

Margaret Currin, Chair

September
2014

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
MITCHAMBAKUSIK	ACS Temp de
Teagan Humphries	Campbell Law Student
BARRY GUSTON	NCDOT - NCBCC
Ann Christian	NCALB
Margaret McDandd	NCDPS
Ann Wall	NCSES
Andrew Kingoff	NCALB
JOHN ARREY	NCBFBPC
Lee Dakes	NCFBPPC
Dave Horne	Smith Anderson
Bob Potter	NCDOT
JEFF INKS	WDMA
ROBERT PRIVOT	NCHSA
DAN TINGR	NCBCC
Joan Troy	SBOE
GEORGE MCCUE	SBoE
Karen Waddell	NCDTL
Beth Mackwell	NCDOT
Vicki Martin	TRPWC
Lisa Martin	Nc Home Builders Assn.
Louisa Christopher	NCCOB

