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Commonwealth of Massachusetts
Division of Professional Licensure
Board of Registration of Professional Engineers
and Land Surveyors

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AFFAIRS AND BUSINESS
REGULATION

LAYLA R. D'EMILIA
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Minutes of the April 30, 2020 Open Meeting

Meeting was held remotely by telephone as an alternate means of public access pursuant to an Order issued by the Governor of Massachusetts dated March 12, 2020 suspending certain provisions of the open meeting law.

The following attendance was recorded:

Board Members Present

Paul Tyrell, PE, PLS, Chairman
Ronald Willey, PE, Vice Chairman
Erin Joyce, PE
Daniel Caron, PE
Joyce Hastings, PLS
Azur Etoniru, PE, PLS
Maurice Pilette, PE
Shannon Slaughter, Public Member
Paul Tsang, PE
Kenneth Anderson, PLS

Board Members Absent

Members of the Public Present

Abbie Goodman, TECET

Division Staff Members Present at Various Times during the Meeting:

Matthew Keigan, Executive Director
Sheila York, Board Counsel
Eric Funk, Board Administrator
Jenna Hentoff, Prosecuting Counsel

1. Chairman Paul Tyrell opened the meeting at 9:00AM. With the meeting being held via conference call, there was no need to go over the evacuation procedures. The Chair reminded attendees that all votes during the conference call meeting would be by roll call.
2. The Board reviewed the minutes of the March 26, 2020 Open Meeting. Azur Etoniru moved, seconded by Kenneth Anderson, to accept the meeting minutes with a minor amendment. Motion passed with a vote of 9-0. Members in Favor: Paul Tyrell, Joyce Hastings, Daniel Caron, Azur Etoniru, Maurice Pilette, Shannon Slaughter, Paul Tsang, Erin Joyce, and Kenneth Anderson. Members opposed: none.
3. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on May 28, 2020.



4. Executive Director Matthew Keigan provided the Board with an update on how the Governor's stay-at-home directive due to COVID-19 is impacting the Division of Professional Licensure (DPL) and the Engineer/Land Surveyor Board. He informed the Board that all staff are currently working remotely and only going into the office when absolutely necessary.

While all DPL walk-in services have ceased, the Board continues to provide the same level of service to licensees as it did prior to the Governor's directive. The next update from the Governor regarding the stay-at-home directive is expected on May 18, 2020 and the Board will be provided with another update at the May 25, 2020 meeting.

Executive Director Matthew Keigan further stated that with the June 30, 2020 license renewal deadline approaching all licensees were either mailed or emailed their renewal notice with instructions on how to renew via the on-line license renewal platform.

Chairman Paul Tyrell acknowledged that the Board appears to be operating smoothly despite the challenges of COVID-19.

Sheila York added that DPL and the Board continues to address priority issues that may arise.

5. Eric Funk participated in the NCEES MBA Town Hall discussion on April 23, 2020. He apprised the Board of the topics discussed which included but were not limited to the cancellation of the April 2020 exam; potential plan for the October 2020 exam; Pearson VUE test center availability; potential restrictions/requirements for test centers; capacity limitations; notification to approved applicants; NCEES Zone meetings; NCEES Annual Meeting; etc.
6. Chairman Paul Tyrell gave the Board a quick summary of NCEES's proposed plan to restructure the PS exam to a modular based exam with each state specifying which core modules and which supplemental modules they wish to offer.

NCEES provided a survey to all member boards regarding the proposed restructuring for their feedback.

After some discussion, the Board decided to create a subcommittee to answer the questions on the survey. Azu Etoniru was chosen to Chair the subcommittee, with Joyce Hastings and Ken Anderson as members. The committee would present their responses to the full board @ the next Board meeting on May 28, 2020.

7. Sheila York briefed the Board on the status of draft language regarding Continuing Professional Competency (CPC). She informed the Board that there were no significant updates at this time.
8. Sheila York informed the Board that the approved draft clarification language regarding the Use of the Title Engineer had been provided to DPL staff for review for posting on the website, however, due to the state of emergency, authorization is still pending.
9. Sheila York informed the Board that the draft clarification language intended to provide guidance on 250 CMR 5.01 (2) and more specifically, 250 CMR 5.01 (2) (a), had been provided to DPL staff for review for posting on the website, however, due to the state of emergency, authorization is still pending.
10. Sheila York informed the Board that due to the state of emergency, authorization is still pending regarding the Use of the Title Engineer or 250 CMR 5.01 (2) language, and the Board's ability to update the language in "Professional Practice, A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts" accordingly.

11. Executive Director Matthew Keigan informed the Board that there were two (2) self-reports of discipline made to the NCEES Enforcement Exchange where the licensee did not also notify Massachusetts of the discipline in another jurisdiction as required. As a result, the Board initiated one (1) complaint for failure to report discipline within the required thirty (30) day timeframe and was monitoring two (2) others that were still within the thirty (30) day window to report as outlined in the regulations.

There was no action taken by the Board.

12. Executive Director Matthew Keigan stated that the Board received the scheduled monitoring report per the Consent Agreement in the matter of Docket No. 20150326EN015-IT-ENF.

This was the seventh report provided under the terms of the consent agreement but it was the first report that was provided by a licensed land surveyor who agreed to monitor the licensee's work as stipulated in the consent agreement.

After review and discussion of the report, the Board requested that Sheila York contact the licensed surveyor who is providing monitoring of the licensee's work clarifying the scope of his responsibility and request more detail of the process he is utilizing for oversight.

13. Executive Director Matthew Keigan stated that the Board received the scheduled monitoring report per the Consent Agreement in the matter of Docket No. 20140625EN27-IT-ENF.

Joyce Hastings was recused from the discussion.

The matter involves the unlicensed practice of land surveying and engineering. After review and discussion of the report, the Board requested that Sheila York contact the licensed engineer who is listed as in direct charge and supervision of the engineering work and request clarification of the process he is utilizing for oversight.

14. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Kenneth Anderson motioned, seconded by Azu Etoniru to accept the report and ratify the application approvals noted. Motion passed with a vote of 10-0. Members in Favor: Paul Tyrell, Ronald Willey, Kenneth Anderson, Joyce Hastings, Daniel Caron, Azu Etoniru, Maurice Pilette, Shannon Slaughter, Paul Tsang, Erin Joyce. Members opposed: none.

15. Sheila York informed the Board that an application had been received that indicated a Good Moral Character (GMC) issue in West Virginia (WV). She provided a summary of the issue (a minor violation of the WV Board's regulations during the approval process of the applicant's WV application) which was resolved and the application for licensure in WV was granted. Sheila York recommended that the Board allow the application to move forward. Azu Etoniru motioned, seconded by Joyce Hastings to accept the recommendation and allow the application to move forward. Motion passed with a vote of 10-0. Members in Favor: Paul Tyrell, Ronald Willey, Kenneth Anderson, Joyce Hastings, Daniel Caron, Azu Etoniru, Maurice Pilette, Shannon Slaughter, Paul Tsang, Erin Joyce. Members opposed: none.

16. Sheila York informed the Board that an application had been received that indicated a Good Moral Character (GMC) issue in a Virginia (VA). She provided a summary of the issues (3 out-of-state misdemeanor traffic convictions in the past 10 years) which were

resolved with the courts and there have been no further incidents in the past 7 years. Kenneth Anderson motioned, seconded by Maurice Pilette to allow the application to move forward. Motion passed with a vote of 10-0. Members in Favor: Paul Tyrell, Ronald Willey, Kenneth Anderson, Joyce Hastings, Daniel Caron, Azu Etoniru, Maurice Pilette, Shannon Slaughter, Paul Tsang, Erin Joyce. Members opposed: none.

17. Sheila York informed the Board that an application had been received that indicated a Good Moral Character (GMC) issue in Massachusetts (MA). She provided a summary of the issue (a misdemeanor traffic violation more than ten years ago that did not result in a conviction) which was resolved through the courts. Sheila York stated that per Board policy, the application could move forward.
18. Sheila York informed the Board that an application had been received that indicated a Good Moral Character (GMC) issues in North Carolina (NC) and New Hampshire (NH). She provided a summary of the issues (2 traffic related; 1 physical altercation; and a contempt charge due to a familial matter) all of which occurred more than 10 years ago. Azu Etoniru motioned, seconded by Joyce Hastings to allow the application to move forward. Motion passed with a vote of 10-0. Members in Favor: Paul Tyrell, Ronald Willey, Kenneth Anderson, Joyce Hastings, Daniel Caron, Azu Etoniru, Maurice Pilette, Shannon Slaughter, Paul Tsang, Erin Joyce. Members opposed: none.
19. Chairman Paul Tyrell presented an email from Matthew Weidele, dated March 30, 2020, regarding electronic stamping of documents for the Board's consideration.

Dan Caron commented that from the scenario laid out in the email, it appeared that Mr. Weidele was in compliance with Board regulations regarding electronic stamping of documents by utilizing a program that allowed for multi-factoring and encryption. He further stated that most commercially available programs allow for more than one (1) signature field.

Sheila York indicated that she would provide a response to Mr. Weidele regarding compliance with the Board's regulations.

20. The Board reviewed an email from Susan Newton-Dunn, dated April 3, 2020, which had an attached letter in support of the engineering licensure board. The letter was also emailed to the Governor.

The Chair asked that Ms. Newton-Dunn be sent an email thanking her for the support.

21. Sheila York provided the Board with a summary of an email from Riyaz Balsara, dated April 7, 2020, regarding a local building department's request for a letter from the Board acknowledging the temporary permit process.

Sheila York detailed how the issuing of such a letter could potentially open the flood gates to more and more requests for individually prepared responses to local officials which could have an impact on the Board's limited resources.

The Board considered the matter and determined that in this particular instance, a letter outlining the process, which is already outlined in the regulations, could be provided as requested.

Sheila York and Eric Funk agreed to draft the response to the building official.

22. At 10:51AM, the Board voted to end the Open Session of the conference call and enter into Closed Investigative Session under M.G.L. c. 112 §65C. Motion passed with a vote of 10-0.

Report of actions taken during closed investigate conference:

- 2020-000141-IT-ENF: Dismiss without Prejudice
 - 2020-000147-IT-ENF: Dismiss without Prejudice
 - 2020-000132-IT-ENF: Forward to Prosecutions
 - 2020-000100-IT-ENF: Close Applications for Complaint
- (Chairman Paul Tyrell recused)

Respectfully submitted by,

X

Eric Funk
Board of Registration of Professional Engin...

Documents used at the public meeting

- Agenda for April 30, 2020 Meeting
- Draft Minutes of March 26, 2020 Open Meeting
- Copy of email from Matthew Weidele, dated March 30, 2020, regarding electronic stamping of documents.
- Copy of email from Susan Newton-Dunn, dated April 3, 2020, regarding a letter in support of the engineering licensure board.
- Copy of email from Riyaz Balsara, dated April 7, 2020, regarding a local building department's request for a letter from the Board acknowledging the temporary permit process.