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Minutes of the May 25, 2023 Open Meeting

Meeting was held remotely by video conference and telephone pursuant to Chapter 2 of the Acts of 2023: *An Act Making Appropriations for the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects*, signed into law on March 29, 2023.

The following attendance was recorded:

Board Members Present

Paul Tyrell, PE, PLS, Chairman
Daniel Caron, PE
Azur Etoniru, PE, PLS
Joyce Hastings, PLS
Kenneth Anderson, PLS
Paul Tsang, PE

Board Members Absent

Ronald Willey, PE, Vice Chairman
Shannon Slaughter, Public Member
Erin Joyce, PE

Members of the Public Present

Maggie Cameron, PE License Applicant
Kevin Flowers, PLS License Applicant

Division Staff Members Present

at Various Times during the Meeting:

Kathleen McNally, Executive Director of
Various Boards
Jenna Hentoff, Board Counsel
Eric Funk, Board Administrator

1. At 9:10AM, Executive Director Kathleen McNally provided notice that pursuant to M.G.L. Ch. 30A, § 20, the meeting would be recorded.
2. At 9:11AM, Azur Etoniru motioned, seconded by Kenneth Anderson, to open the meeting. Motion passed with a vote of 6-0. Members in Favor: Paul Tsang, Joyce Hastings, Azur Etoniru, Dan Caron, Kenneth Anderson, and Paul Tyrell. Members opposed: None.
3. Chairman Paul Tyrell reminded the Board that with warmer weather in the forecast, it is important to stay hydrated.



4. The Board reviewed the minutes of the May 4, 2023 Open Meeting. Azu Etoniru moved, seconded by Joyce Hastings, to accept all meeting minutes with minor edits to two items under section 14. Motion passed with a vote of 6-0. Members in Favor: Paul Tsang, Joyce Hastings, Azu Etoniru, Dan Caron, Kenneth Anderson, and Paul Tyrell. Members opposed: None.
5. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on June 22, 2023. No conflicts were noted.
6. Chairman Paul Tyrell informed the Board that on April 27-29, 2023, he, Dan Caron, and Joyce Hastings attended the NCEES Zone Interim Meeting in Houston, TX. He stated that what stood out to him was learning about other states' level of access to their State Legislature Offices and how quickly some states are able to request and obtain changes to their regulations. He further stated that some state Boards are self-funded agencies.
7. Executive Director Kathleen McNally advised the Board that senior management has been fully briefed on their request to convert the State Specific Jurisprudence (JP) exam from paper and pencil to computer-based testing (CBT). She explained that management is reviewing several such requests across the agency, and she will continue to push for movement with their request.

Chairman Paul Tyrell provided a brief synopsis of the subcommittee's discussions and topics of concern and consideration that will require further discussion between the agency and PCS. He also informed the Board that NCEES has begun researching the addition of a Colonial States Exam (similar to the Board's JP exam) to their exam offerings for states that require a state specific exam for land surveying licensure.

8. Chairman Paul Tyrell asked the Board if they were aware of the process for registering an engineering or surveying firm in Massachusetts.

Eric Funk informed the Board that while the MA Board does not license or register firms, only individuals, the Board does play a small role in the registration process which is handled by the MA Secretary of State's Office. That role relates to the Certificate by Regulatory Board form which is part of the Secretary of State's corporate or limited liability company registration application process.

Eric Funk stated that 250 CMR 5.05 states the following: *A Business Entity may provide or offer to provide engineering or surveying services only if a registered engineer or land surveyor has management responsibility for that part of the business. In this context, such Registrant is referred to as the Registrant-in-charge. The relationship between the Business Entity and the Registrant-in-charge must be characterized by the following:*

- (1) *the Registrant-in-charge or a Registrant in his or her charge exercises Direct Charge and Supervision as set forth in 250 CMR 5.04; and*
- (2) *the Registrant-in-charge is an active participant in the contracting, reporting, publishing, scheduling, etc. of professional services being offered by the Business Entity.*

He further explained that firms seeking to provide engineering or land surveying services in MA are required to file registration paperwork with the Massachusetts Secretary of State's Office. As part of a business registration in MA, the Secretary of State's office will require a Certificate by Regulatory Board form to be signed by the Board of Registration for Professional Engineers and Land Surveyors. The Certificate by Regulatory Board form must list the MA licensed engineer or surveyor that will be the registrant-in charge or in responsible control of the engineering or surveying services offered in Massachusetts. The Board reviews the information provided on this

form by the entity and if the individual listed as the registrant-in charge or in responsible control holds a valid MA PE or PLS license, the form is signed and affixed with the Board's seal and returned to the entity for inclusion with their registration application to the Secretary of State.

The Board was advised that this entire process is detailed on the Board's website.

9. Board Counsel Jenna Hentoff informed the Board that the draft language for Continuing Professional Competency (CPC) regulations is still under review by the Executive Office of Administration and Finance (A&F).

Chairman Paul Tyrell asked if it was possible to obtain a potential timetable for a decision as well as the name of the specific individual or individuals performed the review. Board Counsel Jenna Hentoff stated that she would make the request.

10. Board Counsel Jenna Hentoff advised the Board that the draft "Professional Practice: A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts" ("Guide") had been forwarded to DOL Agency staff for review.
11. Board Counsel Jenna Hentoff informed the Board that there were no further legal topics for discussion.
12. Executive Director Kathleen McNally informed the Board that the revised and updated complaint tracking spreadsheet would hopefully be available for either the June 22, 2023 or July 27, 2023 meeting. She further stated that the Attorney General's Office has requested a report detailing the status of all adjudicated Office of Investigations matters.

She also informed the Board that senior management has been forwarded the invite for the upcoming NCEES Virtual Law Enforcement Forum: Responsible Charge and Supervision webinar.

13. Board Counsel Jenna Hentoff informed the Board that licensee John Halnon, #36380-LS, formally petitioned the Board to terminate his license suspension as the agreed to 1-year suspension period expired. Mr. Halnon entered into a consent agreement with the Board in resolution of a complaint filed against him in which he agreed that his license would be suspended for 1 year and further agreed to pay an \$800.00 fine. She also summarized the admissions made by Mr. Halnon in said agreement.

After a brief discussion, Kenneth Anderson moved, seconded by Azu Etoniru, to grant the petition to terminate the licensee's suspension. Motion passed with a vote of 6-0. Members in Favor: Paul Tsang, Joyce Hastings, Azu Etoniru, Dan Caron, Kenneth Anderson, and Paul Tyrell. Members opposed: None.

14. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Azu Etoniru moved, seconded by Dan Caron, to accept the report and ratify the application approvals. Motion passed with a vote of 6-0. Members in Favor: Paul Tsang, Joyce Hastings, Azu Etoniru, Dan Caron, Kenneth Anderson, and Paul Tyrell. Members opposed: None.
15. There were no comments from the public.
16. At 10:30AM, Kenneth Anderson moved, seconded by Dan Caron, to end the Open Session of the meeting and enter Closed Executive Session pursuant to G.L. c. 30A, §21(a) (1) to discuss the

character, rather than competence, of an applicant. Motion passed with a vote of 6-0. Members in Favor: Paul Tsang, Joyce Hastings, Azu Etoniru, Dan Caron, Kenneth Anderson, and Paul Tyrell. Members opposed: None.

Executive Director Kathleen McNally acknowledged that recording of the meeting had ended.

17. At 10:35AM, the Board exited Closed Executive Session and entered Closed Investigative Conference pursuant to G.L. c. 112, § 65C.

Report of actions taken during closed investigate conference:

- 2023-000053-IT-ENF: Send to Prosecutions
- 2023-000118-IT-ENF: Send to Prosecutions
- 2023-000206-IT-ENF: Dismiss

18. At 11:05AM, Kenneth Anderson moved, seconded by Dan Caron, to exit closed session and adjourn the meeting. Motion passed with a vote of 6-0. Members in Favor: Paul Tsang, Joyce Hastings, Azu Etoniru, Dan Caron, Kenneth Anderson, and Paul Tyrell. Members opposed: None.

Respectfully submitted by,



Eric Funk
Board Administrator

Documents used at the public meeting:

- Agenda for May 25, 2023 Meeting
- Draft Minutes of May 4, 2023 Open Meeting
- John Halnon Petition to Terminate Probation