



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

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

1000 Washington Street • Boston • Massachusetts • 02118

EDWARD A. PALLESCHI
UNDERSECRETARY OF CONSUMER
AFFAIRS AND BUSINESS
REGULATION

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

Minutes of the May 26, 2022 Open Meeting

Meeting was held remotely by video conference and telephone pursuant to Chapter 22 of the Acts of 2022: *An Act Making Appropriations for the Fiscal Year 2022 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects* signed into law on February 12, 2022.

The following attendance was recorded:

Board Members Present

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

Board Members Absent

Members of the Public Present

Abbie Goodman, TECET
Herb Singleton, PE

Division Staff Members Present
at Various Times during the Meeting:

Jenna Hentoff, Board Counsel
Clinton Dick, General Counsel
Eric Funk, Board Administrator

1. At 9:02AM, Azu Etoniru motioned, seconded by Kenneth Anderson, to open the meeting. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Dan Caron, Azu Etoniru, Kenneth Anderson, Paul Tyrell, Joyce Hastings, Shannon Slaughter, Paul Tsang, and Maurice Pilette. Members opposed: None.
2. Chairman Paul Tyrell advised the Board to take the necessary safety precautions when using lawn care machinery and tools.
3. Vice Chair Ronald Willey joined the meeting at 9:08AM.
4. The Board reviewed the minutes of the April 28, 2022 Open Meeting. Kenneth Anderson moved, seconded by Azu Etoniru, to accept the meeting minutes as written. Motion

passed with a vote of 9-0-1. Members in Favor: Erin Joyce, Dan Caron, Azu Etoniru, Ronald Willey, Kenneth Anderson, Paul Tyrell, Joyce Hastings, Shannon Slaughter, and Paul Tsang. Members opposed: None. Members abstaining: Maurice Pilette.

5. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on June 23, 2022. No conflicts were noted among the Board.
6. Board Counsel Jenna Hentoff reminded the Board of the conflict of interest law which generally prohibits a state employee (paid or unpaid, appointed or elected, full-time or part-time) from having a financial interest, directly or indirectly, in a contract made by the state or a state agency or generally from participating in a matter which involves an individual with whom the Board member has a close relationship. If a Board member has, or develops, a close relationship with an individual or a financial interest related to a matter before the Board, they must disclose the relationship and/or recuse themselves from involvement in such matter.

Chairman Paul Tyrell inquired about the State's requirement for completing the Ethics and Conflict of Interest training courses. Board Counsel Jenna Hentoff stated that she will look into the availability of the courses and report back to the Board as soon as an update was available.

7. Eric Funk informed the Board that with the recent retirement of David Humphry, PLS, from the Board's State Specific Jurisprudence (JP) Exam Subcommittee, his vacant position would be filled by Peter Lothian, PLS.

Per the discussion at the April 28, 2022 Board meeting, Chairman Paul Tyrell reviewed Mr. Lothian's CV prior to finalizing his appointment to the subcommittee.

8. Board Counsel Jenna Hentoff provided the Board with the updated draft of the FAQ regarding PE Certification of Site Plans that addressed the request for the Board to consider amending the word "certify" to "stamp and sign" to alleviate any possible misinterpretation. This topic was discussed at the April 28, 2022 meeting.

She informed the Board that a footnote was added to the FAQ stating that "Use of the word 'certify' includes the act of signing, sealing and/or stamping a plan by the Professional Engineer."

Kenneth Anderson moved, seconded by Dan Caron, to accept the amended FAQ and have it posted on the Board's website. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Azu Etoniru, Ronald Willey, Kenneth Anderson, Paul Tyrell, Joyce Hastings, Shannon Slaughter, Paul Tsang, and Maurice Pilette. Members opposed: None.

9. Chairman Paul Tyrell asked that Board staff review the Board's profile on the NCEES website to address any information that requires updating. Additionally, he asked that Board staff contact NCEES regarding any auto-approval/verification services that they provide to Member Boards.

Eric Funk stated that he would review the Board's information and contact NCEES regarding such services.

10. Board Counsel Jenna Hentoff reminded the Board that on February 12, 2022, Governor Baker signed into law a new session law which extended certain COVID-19 related measures. The law, Chapter 22 of the Acts of 2022, included an extension until July 15, 2022, of the remote meeting provisions of the Governor's March 12, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law.

She stated that while the provision for remote meetings has not yet been extended beyond July 15, 2022, it is expected to happen. In the event that it does not get extended, the July 28, 2022 meeting could potentially be held in-person at the DOL offices.

11. Board Counsel Jenna Hentoff provided the Board with a copy of the most recently amended draft language regarding Continuing Professional Competency (CPC) regulations. She stated that version provided to them was identical to the original version with the exception of provisions in 250 CMR 7.00 related to enforcement and potential disciplinary action for non-compliance.

Board members did not have any comment regarding the amended draft language.

Azu Etoniru moved, seconded by Kenneth Anderson, to accept the current draft of the Continuing Professional Competency (CPC) regulations and move them forward for review by DOL staff. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Azu Etoniru, Ronald Willey, Kenneth Anderson, Paul Tyrell, Joyce Hastings, Shannon Slaughter, Paul Tsang, and Maurice Pilette. Members opposed: None.

12. Board Counsel Jenna Hentoff advised the Board that after further discussion with General Counsel Clinton Dick, there was no clear path forward for addressing the Swansea Board of Health's (BOH) regulations on "local licensure" or permitting. She further stated that the authority afforded to Boards of Health under Title V allow them to implement more stringent regulations to address potential health impacts.

She stated that the Board may not have a strong argument in support of finding a conflict of interest between the "local licensure" or permitting provision and the Board's authority.

Shannon Slaughter stated that the Board already has the authority to enforce engineer and land surveyor licensure and professional practice regulations so how would the "local licensure" or permitting provision not infringe on that authority?

Kenneth Anderson stated that this provision could lead to problems for the Town of Swansea.

Azu Etoniru agreed that the provision could cause potential financial harm to licensed P.E.'s (e.g., loss of work, legal costs, etc.) and further stated that requiring payment for the "local license" or permit does not improve or protect the public's health, which is a function of their mandate.

Board Counsel Jenna Hentoff reminded the Board that in order to obtain the "local license" or permit, one must hold a current MA PE license.

Chairman Paul Tyrell again reiterated that this matter remains of great concern to the Board but appreciated the detailed review by Board staff and DOL personnel.

13. Board Counsel Jenna Hentoff informed the Board that an update to the draft language in "Professional Practice: A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts" would be made to include the newly revised and approved FAQ. She further stated that since the Board did not provide any additional comments to her or Eric Funk for review and discussion, she would continue to work with Lynn Read, Board Counsel for the Board of Registration of Architects, on crafting the final version for review at a future Board meeting.
14. Vice Chair Ronald Willey had another engagement and logged out of the meeting at 9:45AM.

15. Board Counsel Jenna Hentoff stated that there were no further legal topics for discussion.
16. Eric Funk informed the Board that after review of the NCEES Enforcement Exchange, there were no new complaints opened against licensees for failure to notify the Board of discipline in another jurisdiction within the thirty (30) day window to report such discipline as outlined in the regulations.
17. Eric Funk advised the Board that an update to the case tracking spreadsheet would hopefully be available for distribution for the June 23, 2022 meeting, pending full access to the enforcement side of the Board's database system.
18. Chairman Paul Tyrell briefed the Board about an application that both he and Erin Joyce had reviewed where the applicant's engineering experience was entirely construction related. He stated that the applicant originally provided the Board with work samples detailing her work experience, specifically crane placement, at the New York Department of Transportation (DOT). When asked to provide the Board with additional samples demonstrating her breadth and depth of engineering experience per 250 CMR 3.05 (2), she provided the Board with additional samples of crane placement work she had performed.

Both Erin Joyce and Chairman Paul Tyrell agreed that the applicant had failed to demonstrate to the Board that she had at least 4 years of qualifying engineering/engineering design experience under the direct supervision of a licensed P.E. and requested that Eric Funk reach out to advise the applicant the Board could not approve her application per 250 CMR 3.05 (2), 250 CMR 3.05 (10), and 250 CMR 3.05 (11). Further, she should be advised that if she has additional engineering/engineering design experience beyond crane placement, she should provide samples to the Board for consideration.

19. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Maurice Pilette moved, seconded by Kenneth Anderson, to accept the report and ratify the application approvals. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Dan Caron, Azu Etoniru, Kenneth Anderson, Paul Tyrell, Joyce Hastings, Shannon Slaughter, Paul Tsang, and Maurice Pilette. Members opposed: None.
20. Chairman Paul Tyrell opened the meeting for Public Comment.

Chairman Paul Tyrell recognized Herb Singleton, PE, who raised an issue he previously had in 2018 when he was notified of a stay on his right to renew his license. Mr. Singleton explained the process he went through to resolve the matter.

Mr. Singleton stated that roughly two weeks after he received the notice, he was finally able to get the issue resolved, but the process was frustrating and he would like to ensure that what transpired doesn't happen to him, or anyone else, in the future.

General Counsel Clinton Dick advised Mr. Singleton to email Eric Funk with as much detail and supporting documentation as he can regarding the matter, and he will look into it and contact him once he has had an opportunity to investigate.

21. At 10:18AM, the Board voted to end the open session and enter into closed session to discuss final decision and orders in Closed Quasi-Judicial Session pursuant to G.L. c. 30A, §18 and investigative matters in Closed Investigative Session pursuant to G.L. c. 112, § 65C. Motion was made by Dan Caron and seconded by Azu Etoniru. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Dan Caron, Azu Etoniru, Kenneth Anderson, Paul Tyrell, Joyce Hastings, Shannon Slaughter, Paul Tsang, and Maurice Pilette. Members opposed: None.

Board Counsel Jenna Hentoff was recused from the discussion.

Report of actions taken in quasi-judicial session:

➤ 2019-001437-IT-ENF: Board voted to issue the Final Decision and Order

22. At 10:30AM, Azu Etoniru moved, seconded by Kenneth Anderson, to adjourn the meeting. Motion passed with a vote of 8-0. Members in Favor: Dan Caron, Erin Joyce, Paul Tyrell, Azu Etoniru, Joyce Hastings, Shannon Slaughter, Kenneth Anderson, and Paul Tsang. Members opposed: None.

Respectfully submitted by,



Eric Funk
Board Administrator

Documents used at the public meeting

- Agenda for May 26, 2022 Meeting
- Draft Minutes of April 28, 2022 Open Meeting
- Draft FAQ regarding PE Certification of Site Plans
- Draft Continuing Professional Competency (CPC) Regulations
- Draft "Professional Practice: A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts"