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Minutes of the July 27, 2023 Open Meeting

Meeting was held in person at 1000 Washington Street, Room 1D, Boston, MA and 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 in person

Paul Tyrell, PE, PLS, Chairman
Daniel Caron, PE
Kenneth Anderson, PLS
Nancy Gould, PE

Board Members Present remotely

Ronald Willey, PE, Vice Chairman
Azu Etoniru, PE, PLS
Erin Joyce, PE
Joyce Hastings, PLS
Paul Tsang, PE

Board Members Absent

Shannon Slaughter, Public Member

Members of the Public Present

Ardian Rrapi, PLS License Applicant
Bernardo Niati, PLS License Applicant
Edward Krippendor, Attorney

Division Staff Members Present

at Various Times during the Meeting:

Kathleen McNally, Executive Director of
Various Boards
Jenna Hentoff, Board Counsel
Patricia LaFore, Board Counsel
Eric Funk, Board Administrator
Bryan Freitas, Investigations Supervisor

1. At 9:02AM, Executive Director Kathleen McNally provided notice that pursuant to M.G.L. Ch. 30A, § 20, the meeting would be recorded.



2. At 9:03AM, Kenneth Anderson motioned, seconded by Dan Caron, to open the meeting. Motion passed with a vote of 7-0. Members in Favor: Azu Etoniru, Erin Joyce, Joyce Hastings, Kenneth Anderson, Dan Caron, Paul Tyrell, and Nancy Gould. Members opposed: None.
3. The Board reviewed the minutes of the June 22, 2023 Open Meeting. Azu Etoniru moved, seconded by Kenneth Anderson, to accept the minutes as written. Motion passed with a vote of 7-0. Members in Favor: Azu Etoniru, Erin Joyce, Joyce Hastings, Kenneth Anderson, Dan Caron, Paul Tyrell, and Nancy Gould. Members opposed: None.
4. Chairman Paul Tyrell acknowledged that the meeting was being held both virtually and in person for the first time since February 2020.
5. Chairman Paul Tyrell reminded attendees to stay hydrated during the current heatwave and beyond.
6. At 9:10AM, Ronald Willey and Paul Tsang logged into the meeting.
7. Chairman Paul Tyrell introduced Nancy Gould to the Board as the new Fire Protection engineer appointee. She gave a brief introductory statement and acknowledged her prior working relationship with former Board member Maurice Pilette.
8. Chairman Paul Tyrell informed the Board that the next meeting was scheduled to be held on August 24, 2023. Several Board members noted a conflict with that date and the meeting was moved to August 23, 2023. The meeting would again be held as a hybrid meeting with members attending in-person at the DOL offices and remotely via Microsoft Teams.
9. Chairman Paul Tyrell reminded the Board that the NCEES Annual Meeting was being held in Boston's Seaport District from August 15-18, 2023. He provided a quick overview of NCEES, the Annual Meeting topics, and which Board members would be attending the meeting for the benefit of new member Nancy Gould.
10. Executive Director Kathleen McNally advised the Board that while senior management has been fully briefed on their request to convert the State Specific Jurisprudence (JP) exam from paper and pencil to a computer-based testing (CBT) format, there was no update available at present time. She stated that she would continue to push for agency movement on this matter.
11. Joyce Hastings provided the Board with the Jurisprudence (JP) Exam Education Subcommittee report on the April 2023 exam results. This was the fifth administration of the exam since the reduction in the number of exam questions from 50 to 40. The subcommittee's recommendation was to set the pass rate at 70%.

There were five (5) exam takers. Four (4) of the five (5) exam takers were Massachusetts residents. One (1) of the five (5) exam takers was a first-time taker of the exam. Of the five (5) exam takers, four (4) achieved a passing score of at least 70%.

Kenneth Anderson motioned to accept the recommendation of the subcommittee, seconded by Azu Etoniru. Motion passed with a vote of 9-0. Members in Favor: Azu Etoniru, Erin Joyce, Joyce Hastings, Kenneth Anderson, Dan Caron, Paul Tyrell, Nancy Gould, Ronald Willey, and Paul Tsang. Members opposed: None.

12. Board Counsel Jenna Hentoff informed the Board that the draft language for Continuing Professional Competency (CPC) regulations was currently under review with the Deputy General Counsel's office at the Executive Office of Administration and Finance (A&F).
13. 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") is being thoroughly reviewed by DOL's General Counsel and Deputy General Counsel. She again stated that it was communicated to the Deputy General Counsel that this document has been in process for a very lengthy time and that both Boards are anxious to see it move forward in the review process as expeditiously as possible.

Chairman Paul Tyrell indicated that due to the continued high volume of unlicensed practice matters coming before the Board, it might be prudent for the Engineer Board Chair and Architect Board Chair to meet and discuss possible ways to work together to address the issue.

14. Board Counsel Jenna Hentoff informed the Board that there were no further legal topics for discussion.
15. Executive Director Kathleen McNally informed the Board that the revised and updated complaint tracking spreadsheet was still undergoing review and updating with the hope that a current version would be available in the coming months.

She also informed the Board that senior management gave the okay for all Office of Investigations and Prosecutions staff to be provided with access to NCEES to take advantage of the numerous law enforcement resources and training opportunities that NCEES provides to member Boards.

16. Vice Chair Ronald Willey requested that the Board revise the language in the application instructions and on the Professional Credential Services, Inc. (PCS) website to limit the number of pages of work product and scope of work product that is allowed to be submitted in support of an application. He stated that in recent months, applications that he has reviewed contained more than 500 pages of documentation that was either insufficient, did not constitute the practice of engineering, was redundant, or did not clearly represent that it was performed by the applicant.

Eric Funk informed the Board that a thorough revision of all Board applications was currently underway with the expectation that draft versions of the revised applications could be provided for Board review in the coming months. He stated that as part of the revision, particular focus was placed on clarifying and limiting the type of work samples that should be uploaded in support of an application and what steps would be taken by the Board and/or the application vendor, PCS, should the instructions not be followed.

17. Dan Caron raised a question with an application he reviewed in which the applicant was only able to provide a limited amount of work product for the Board's review. The Board concluded that they will invite the applicant in for an oral interview.
18. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Kenneth Anderson moved, seconded by Dan Caron, 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, Paul Tyrell, Joyce Hastings, Nancy Gould, Kenneth Anderson, Ronald Willey, and Paul Tsang. Members opposed: None.
19. Dan Caron was recused from the following discussion.

20. Paul Tsang gave the Board a report on the one (1) interview that was conducted by the Oral Exam/Interview Committee on July 25, 2023. He informed the Board that it was an in-state applicant who was applying as a 20-year experience candidate. The full breakdown is as follows:

- **Applicant 1029932:** Applicant is a 20-year experience candidate currently employed by BR+A. Applicant's primary focus is on the retrofit for, or new construction of, Life Science facilities, taking the project from ground through completion. Applicant was able to demonstrate his sound technical background; Mechanical, Electrical, Plumbing (MEP) experience; work with Architects; Code Compliance; etc. Committee recommends this applicant be approved to take the Principles and Practices exam.

Azu Etoniru motioned to adopt the committee's recommendations, seconded by Ronald Willey. Motion passed with a vote of 8-0. Members in Favor: Erin Joyce, Azu Etoniru, Paul Tyrell, Joyce Hastings, Nancy Gould, Kenneth Anderson, Ronald Willey, and Paul Tsang. Members opposed: None. Members recused: Dan Caron.

21. Chairman Paul Tyrell opened the meeting for public comment and recognized Bernardo Niati, a PLS license applicant who was seeking additional guidance from the Board following his oral exam/interview on June 15, 2023.

Chairman Paul Tyrell and Kenneth Anderson both reiterated that the predominance of experience provided with his application and discussed during the interview centered on road layout, easement plans, and tree location for the Town of Wellesley's Department of Public Works. They further explained that due in part to the issues that came up during the review of his application pertaining to one of his work samples and the individual who stamped the plans, he was unable to adequately demonstrate the required number of years of qualifying boundary survey work experience necessary to meet the requirements of 250 CMR 3.05 (2).

Chairman Paul Tyrell indicated that it might be necessary for him to seek alternative employment which will allow him the opportunity to gain the two (2) years of qualifying surveying experience that the Board determined he would need to obtain before he would be eligible for a 2nd oral exam/interview with the Board.

22. At 9:42AM, 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 9-0. Members in Favor: Erin Joyce, Dan Caron, Azu Etoniru, Paul Tyrell, Joyce Hastings, Nancy Gould, Kenneth Anderson, Ronald Willey, and Paul Tsang. Members opposed: None.

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

Azu Etoniru advised the Board that he had a hard stop at 10:30AM and would log out of the meeting at that time.

23. At 10:50AM, the Board voted to exit closed Executive Session and adjourn the meeting.

Respectfully submitted by,


Eric Funk

Board Administrator

Documents used at the public meeting:

- Agenda for July 27, 2023 Meeting
- Draft Minutes of June 22, 2023 Open Meeting