



CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

MIKE KENNEALY  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

Commonwealth of Massachusetts  
Division of Professional 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

DIANE SYMONDS  
COMMISSIONER, DIVISION OF  
PROFESSIONAL LICENSURE

## Minutes of the July 25, 2019 Open Meeting

*Board members arrive early and begin processing applications. The following attendance was recorded:*

### Board Members Present

Paul Tyrell, PE, PLS, Chairman  
Dennis Drumm, PLS  
Daniel Caron, PE  
Paul Tsang, PE  
Azun Etoniru, PE, PLS  
Shannon Slaughter, Public Member

### Board Members Absent

Ronald Willey, PE, Vice Chairman  
Maurice Pilette, PE  
Joyce Hastings, PLS  
Erin Joyce, PE

### Members of the Public Present

Abbie Goodman, TECET  
David Magee, Donovan Hatem

### Division Staff Members Present

#### at Various Times during the Meeting:

Sheila York, Board Counsel  
Eric Funk, Board Administrator

1. Chairman Paul Tyrell opened the meeting at 9:10AM and notified attendees of the evacuation procedures.
2. Chairman Paul Tyrell welcomed Shannon Slaughter as the new Public Member of the Board.
3. The Board reviewed the minutes of the June 27, 2019 Open Meeting. Azun Etoniru moved, seconded by Dan Caron, to accept the meeting minutes with a minor edit on page 2. Motion passed with a vote of 5-0-1, with Shannon Slaughter abstaining from the vote.
4. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on August 22, 2019.
5. Sheila York provided the Board with a copy of the written request for reinstatement of suspended license from Steven Younis, No. 46518-FP, dated July 8, 2019.

After a brief discussion, the Board recommended that pending no further issues involving the licensee, his suspension could be lifted.



Dennis Drumm motioned to lift the suspension pending no further matters involving the licensee. The motion was seconded by Dan Caron. Motion passed with a vote of 6-0.

6. Sheila York briefed the Board on the status of draft language regarding Continuing Professional Competency (CPC) stating that it was still under review internally here at the DPL. She will update the Board on the status of the regulation review at future meetings.
7. 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.
8. Sheila York stated the Professional Practice booklet was currently undergoing review to update the regulatory citations. She further stated that progress would be made regarding scheduling a meeting with appropriate DPL staff and an update would be provided at the next meeting.
9. Sheila York highlighted three separate requests received by the Board regarding guidance on 250 CMR 5.01 (2) and more specifically, 250 CMR 5.01 (2) (a) which states, "A Professional Engineer qualified in the Branch of civil engineering may also perform land surveying incidental to his or her engineering work relative to locating or relocating any of the Fixed-works embraced within the practice of civil engineering, but excluding the determination of property lines."

Board members were provided with copies of emails from J. Levesque, dated 1/29/2019, and E. Morse, dated 1/30/2019, regarding a PE performing survey work incidental to engineering work and limitations, as well as emails dated 6/26/2019 and 7/9/2019, from D. Magee, Esq. requesting clarification of 250 CMR 5.01. In addition, Board members were provided a draft FAQ regarding Civil PE certifying site plan which references a property line determination that was previously completed by a PLS.

Chairman Paul Tyrell stated that the issue may in fact be more confusing than presented. He further stated that as he sees it, there are two separate issues: The first is the use of boundary surveys without the knowledge or consent of the surveyor who performed the survey and the second is the use of surveys as part of a project team. The concern with the use of survey without knowledge of surveyor is that the survey may not have been intended to be used for that type of engineering project or conditions may have changed since the prior survey was completed.

Dennis Drumm suggested that one way to resolve a matter involving the issue of the use of a boundary survey without the knowledge or consent of the surveyor who performed the survey would be for a surveyor to add disclaimer language with their stamp.

Chairman Paul Tyrell acknowledged David Magee and opened the floor to him for comment.

David Magee was there to speak on behalf of his client. He informed the Board that the matter did not involve a current court case and that his client had concerns about the language in 250 CMR 5.01 as it pertains to an engineer stamping an As-built plan for a septic system.

David Magee stated that the engineer would be establishing right-of-way using an existing As-built plan that shows right-of-way.

Chairman Paul Tyrell thanked David Magee for his time and indicated that further discussion regarding the matter would be required by the Board.

Dennis Drumm recommended that the draft FAQ be amended and provided Sheila York with suggested edits that would be incorporated to the draft and presented to the Board for review at the August 22, 2019 meeting. Dennis's edits include adding examples of problems that arise when a prior survey is incorporated into an engineering project without confirmation from the surveyor who performed that survey that the survey is reliable and appropriate to be used for that engineering project.

Shannon Slaughter inquired if it was expensive or cumbersome for a surveyor to update a prior plan or survey.

Dennis Drumm and Chairman Paul Tyrell both indicated that the process was neither expensive nor cumbersome.

10. Sheila York stated that the Board received a Self-Report of discipline from Licensee #47948-ST. The Licensee was disciplined by the SC Board for a failure to disclose discipline taken against his license by the Boards of CA, MO, NC, ID, and SD. The SC Board issued a public reprimand and fined the licensee \$300. Sheila York informed the Board that the Licensee had properly reported such discipline to MA and that the Board had considered the underlying discipline by the CA Board back in 2017 and determined that no further action was required.

Dennis Drumm motioned, seconded by Azu Etoniru to take no action against Licensee. Motion passed with a vote of 6-0.

11. Sheila York stated that the Board received a Self-Report of discipline from Licensee #45561-ST. The Licensee was disciplined by the NM Board for failing to report previous discipline in other jurisdictions. Licensee provided notice of a Pre-NCA settlement agreement that references disciplinary action against his license in SD and ID but provides no further information. Sheila York informed the Board that the Licensee had properly reported such discipline to MA and that the Board had considered the underlying discipline by the SD Board back in 2017 and determined that no further action was required.

Dennis Drumm motioned, seconded by Azu Etoniru to take no action against Licensee. Motion passed with a vote of 6-0.

12. Eric Funk stated that the Board received a Self-Report of discipline from Licensee #52316-ST. The Licensee was disciplined by the NM Board for issues with engineering work performed and unlicensed land surveying. Licensee provided notice of a Pre-NCA settlement agreement that references disciplinary action against his license in NM and TX but provided no further information. Eric Funk informed the Board that the Licensee had properly reported such discipline to MA and that the Board had considered the underlying discipline by the TX Board back in 2017 and determined that no further action was required.

Dennis Drumm motioned, seconded by Azu Etoniru to take no action against Licensee. Motion passed with a vote of 5-0-1.

13. At 11:00AM, the Board voted to enter into Closed Investigative Session under M.G.L. c. 112 §65C. Motion passed with a vote of 6-0.

Report of actions taken during closed investigate conference:

- EN-2018-1339: Dismissed without prejudice
- EN-2019-0286: Dismiss with Advisory Letter
- EN-2019-0436: Forward to Office of Prosecutions
- EN-2019-0374: Forward to Office of Prosecutions

14. Open session resumed at 11:19AM.

15. At 11:25AM Chairman Paul Tyrell noted that there were no further topics for the public Board meeting. Azu Etoniru motioned to adjourn. Dan Caron seconded. Motion passed unanimously.

Respectfully submitted by,



---

Eric Funk  
Board of Registration of Professional Enqin...

Documents used at the public meeting

- Agenda for July 25, 2019 Meeting
- Draft Minutes of June 27, 2019 Open Meeting
- Request for reinstatement of suspended license from Licensee #46518-FP, Steven Younis
- Emails from J. Levesque, dated 1/29/2019, and E. Morse, dated 1/30/2019, regarding a PE performing survey work incidental to engineering work and limitations
- Email from David Magee, Partner, Donovan Hatem regarding an inquiry from a client regarding site plans and property lines. The email posed the question, "Can a Professional Engineer (PE) develop and certify a site plan which references a property line determination that was previously completed by a Professional Land Surveyor (PLS) and filed at the Registry of Deeds?"
- Draft FAQ re: Civil PE certifying site plan which references a property line determination that was previously completed by a PLS.