



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

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

Minutes of the May 28, 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

1. Chairman Paul Tyrell opened the meeting at 9:05AM. With the meeting being held via conference call, there was no need to go over the evacuation procedures.
2. The Board reviewed the minutes of the March 26, 2020 Open Meeting. Ronald Willey moved, seconded by Kenneth Anderson, to accept the meeting minutes with a minor amendment. Motion passed with a vote of 10-0. Members in Favor: Paul Tyrell, Joyce Hastings, Daniel Caron, Azur Etoniru, Maurice Pilette, Shannon Slaughter, Paul Tsang, Erin Joyce, Ronald Willey, and Kenneth Anderson. Members opposed: none.
3. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on June 25, 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 continue to work remotely, only going into the office when absolutely necessary. He further stated that the DPL offices will be re-opening with limited capacity effective June 1, 2020 but that the majority of staff will continue to work remotely.

Executive Director Matthew Keigan informed the Board that pursuant to the Governor's Order on the registration of certain licensed professions, if the state of emergency remains in place on June 30, 2020, PE and PLS licenses which meet specific criteria will remain valid until up to 90 days after the termination of the state of emergency.

5. Chairman Paul Tyrell notified the Board that the NCEES Annual Meeting which was scheduled for August 26-29 in Chicago has been cancelled, however, plans are currently in development to conduct a virtual business session to address essential Council business and elections.
6. At the April 30, 2020 meeting the Chair appointed a subcommittee to answer the survey questions regarding NCEES proposed restructuring of the PS exam. Azu Etoniru was chosen to Chair the subcommittee and present their recommended responses to the Board.

Azu Etoniru informed the Board that he began the meeting by providing an overview of the path to licensure for land surveyors in Massachusetts as well as a description of the current PS exam format administered by NCEES. He then detailed the genesis of NCEES proposed changes to the PS exam to a modular format focused on core subject areas supplemented by specific topics that can be selected by each state.

Azu Etoniru then presented the Board with the committee's recommended responses to the survey questions as follows:

- Once the divisional format is implemented, which of the five divisions would you require applicants to pass to be licensed in your jurisdiction?
 - CORE PS, BOUNDARY, MAPPING SCIENCE
- Estimate the number of Examinees in your jurisdiction by division per year.
 - 11-20
- Will implementing this divisional format require a law change in your jurisdiction?
 - No
- Will implementing this divisional format require a rules change in your jurisdiction?
 - Yes. It is likely the Board would want to update its regulations or issue a policy to implement the change to a divisional format.
- Indicate if moving to this format will allow you to:
 - Eliminate your state-specific examination:
 - No
 - Reduce the size of your state-specific examination. Please describe how moving to this format would allow you to reduce the size of the state-specific examination.
 - N/A
 - Neither. Please explain why moving to this format will NOT allow you to eliminate or reduce the size of your state-specific exam.
 - The size of the state specific exam was recently reduced / unique factors for Land Surveying in Massachusetts must be evaluated.
- NCEES uses a process called the professional activities and knowledge study (PAKS) to determine the topics included on an exam. Are there specific content areas you would like to see included in the PAKS process that could possibly end up as a topic on the divisions?
 - Yes
- Who should the EPS Committee contact for follow-up information, if needed? Please provide name and contact information.

- Azu Etoniru
- Assuming laws allow for other types of surveying licenses and all other licensing requirements would be satisfied, would the passing of only the core and mapping science divisions allow you to create a license for mapping science professionals? A mapping science professional is licensed to prepare a geographic information system, drone mapping, and traditional aerial mapping—including topography and related ground control. Yes; No; We already license this activity.

- Yes

*If yes: What is the likelihood that you would create a license for mapping science professionals? Very likely; likely; unsure; unlikely; very unlikely

- But unsure on the likelihood we could create a license for a mapping science professional. The Board would be willing to explore the idea of having a separate license for a mapping science professional. This new license would likely require statutory or regulatory changes.

- Do your statutes currently allow incidental drainage design or any type of incidental design by licensed surveyors? Yes or No

- No

*If no: Would you support a change to your statutes to allow licensed surveyors to practice incidental drainage design in your state, if they were to pass the Incidental Drainage Design division? Yes; No; We already license this activity.

- No

- Please provide any additional information you would like the EPS Committee to consider in its deliberations.

- N/A

Ken Anderson moved, Dan Caron seconded, to adopt the recommended responses of the Committee as the Board responses and send them to NCEES. Members in Favor: Paul Tyrell, Joyce Hastings, Daniel Caron, Azu Etoniru, Maurice Pilette, Shannon Slaughter, Paul Tsang, Erin Joyce, Ronald Willey, and Kenneth Anderson. Members opposed: none.

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 ongoing 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 ongoing state of emergency, authorization is still pending.

10. Sheila York informed the Board that due to the ongoing 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 updated the Board on the NCEES Enforcement Exchange procedure. He informed the Board that each month he frequently reviews the exchange to determine if any MA licensed P.E.'s reported discipline in another jurisdiction to NCEES and if so, that they have also notified the Board of such discipline as required.

Executive Director Matthew Keigan informed the Board that one (1) MA licensee had recent discipline reflected in the NCEES Enforcement Exchange and that he is currently monitoring whether or not the licensee notifies Massachusetts of the discipline in another jurisdiction within the thirty (30) day window to report such discipline as outlined in the regulations.

There was no action taken by the Board.

12. Executive Director Matthew Keigan reminded the Board that at the April 30, 2020 meeting the Board received the scheduled monitoring report per the Consent Agreement in the matter of Docket No. 20140625EN027-IT-ENF. He further stated that the Board requested Sheila York contact the licensed engineer who is listed as supervising the projects for clarification of the process he is utilizing for oversight.

Joyce Hastings was recused from the discussion.

A letter was sent to the MA licensed PE who provided the Board with a description of his relationship with individual being monitored as well as additional detail regarding the oversight process of the work being performed.

Sheila York informed the Board that the oversight process described in the letter did not appear to violate Board regulations and that the letter should be added to the monitoring file.

13. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Ronald Willey 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.

14. Sheila York informed the Board that an application had been received that indicated a Good Moral Character (GMC) issue in Colorado (CO). She provided a summary of the issue which resulted in a one year of probation. Sheila York stated that per Board policy two or fewer misdemeanors within the past 10 years does not automatically require further Board review, but because of the specific circumstances she wanted to know if the Board wished to discuss the issue further with the applicant. Ronald Willey motioned, seconded by Azu Etoniru 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.

15. 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 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.
16. Chairman Paul Tyrell presented an email from William N. Hardy, dated May 14, 2020, regarding electronic stamping of documents.

Azu Etoniru stated that Board regulations specify the required type and dimension of the seal.

Sheila York indicated that 250 CMR 5.03 (2) states, *The seal must be a symbol or image in the form of a rubber stamp, embossed seal or digitized seal (computer generated image), or other form approved by the Board. The outside diameter of the depicted image must be approximately one and one half inches.*

Dan Caron stated that the size of the image should be relative to the size of the drawing.

Chairman Paul Tyrell stated that most programs allow for a resizing of the title block to accommodate multiple seals and further recommended that the Board respond to Mr. Hardy with a reference to the regulations.

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

17. Abbie Goodman asked the Board if it would be possible to hold a future meeting via a video conference services such as Zoom.

Kenneth Anderson stated that he has participated in numerous such meeting via Zoom.

Paul Tsang mentioned that not everyone has access to such services.

Dan Caron stated that the ability for the meeting organizer to share their computer screen would be a benefit.

Executive Director Matthew Keigan informed the Board that the DPL has approved the use of Go to Meeting for video conference services.

Kenneth Anderson motioned, Azu Etoniru seconded to hold a future meeting via video conference. 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.

At 10:12AM, the Chair stated that the public agenda items were complete and it was time to end the Open Session of the conference call and enter into Closed Investigative Session under M.G.L. c. 112 §65C. Kenneth Anderson motioned, Azu Etoniru seconded, to enter into closed session. 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.

18. Motion passed with a vote of 10-0.

Report of actions taken during closed investigate conference:

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| ➤ 2020-001317-IT-ENF: | Forward to Prosecutions |
| ➤ 2020-000263-IT-ENF: | Dismiss without Prejudice |
| ➤ 2020-000207-IT-ENF: | Forward to Prosecutions |
| ➤ 2019-001473-IT-ENF | Guidance given to Prosecutor |

Respectfully submitted by,

X

Eric Funk
Board of Registration of Professional Engin...

Documents used at the public meeting

- Agenda for May 28, 2020 Meeting
- Draft Minutes of April 30, 2020 Open Meeting
- Copy of email from William N. Hardy, dated May 14, 2020, regarding electronic stamping of documents.