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Minutes of the June 24, 2021 Open Meeting

Meeting was held remotely by video conference and 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
Shannon Slaughter, Public Member
Daniel Caron, PE
Joyce Hastings, PLS
Azu Etoniru, PE, PLS
Maurice Pilette, PE
Paul Tsang, PE
Kenneth Anderson, PLS

Board Members Absent

Erin Joyce, PE

Members of the Public Present

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 9:04AM and advised members to be vigilant with sunscreen/sun protection all year round and especially during the summer months.
2. The Board reviewed the minutes of the May 27, 2021 Open Meeting. Vice Chairman Ronald Willey moved, seconded by Azu Etoniru, to accept the meeting minutes with a minor edit to section 27. Motion passed with a vote of 8-0-1. Members in Favor: Joyce Hastings, Azu Etoniru, Kenneth Anderson Paul Tsang, Maurice Pilette, Shannon Slaughter, Paul Tyrell, and Ronald Willey. Members opposed: None. Members Abstained: Dan Caron
3. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on July 22, 2021. Sheila York stated that she would not be able to attend.
4. Executive Director Matthew Keigan informed the Board that the Governor had extended to Executive Order allowing for Board Meetings to be held remotely through April 1,



2022. He advised the Board that due to numerous factors (parking; construction noise; new building security protocols; lack of Wi-Fi, internet, and telephone service in conference rooms; etc.) the Board would continue holding meetings remotely for the foreseeable future.

Kenneth Anderson stated that it does not seem practical to resume in-person meetings until the building construction has been completed and the parking situation has improved.

Executive Director Matthew Keigan and Sheila York stated that they were working on addressing several of the issues (Wi-Fi, internet, and telephone service in conference rooms) and would be providing updates to the Board over the next few months.

Chairman Paul Tyrell, Azu Etoniru, Dan Caron, and Vice Chairman Ronald Willey indicated that they would welcome a return to in-person meetings.

Dan Caron stated that if the Complaint Committee could receive the complaint files several days in advance, they could hold the review meetings in-person.

5. Vice Chairman Ronald Willey and Executive Director Matthew Keigan provided the Board with an update on the potential transition of the paper and pencil State Specific Jurisprudence (JP) exam to a Computer Based Testing (CBT) format.

Vice Chairman Ronald Willey informed the Board that the subcommittee met on June 11, 2021 and heard from representatives of PCS and Prometric. Those representatives advised the Board of how their services could be utilized by the Board when converting the paper and pencil exam to a CBT format.

Vice Chairman Ronald Willey summarized the services that Sean Colton, Prometric's representative discussed during the meeting. He touched on the various services offered; using a question bank; psychoanalytic services; etc.

Executive Director Matthew Keigan and Sheila York informed the Board of their discussion with Tim Miller at NCEES. NCEES is in the final stages of their conversion from paper and pencil exams to CBT with an expected completion date in 2022/2023. A small number of NCEES exam may also be offered regionally, rather than in each state until they are fully in CBT format. This may impact MA testing sites. NCEES was not able to offer a service that would assist the Board in transitioning a written exam to computer format.

Sheila York noted that there are likely companies in addition to Prometric which offer transition to computer based testing services. The Board requested that Sheila York consult with DPL's procurement counsel regarding the board's options regarding potential contract amendment and/or procurement. The goal would be for the next steps to occur in the coming months.

Vice Chairman Ronald Willey stated that the next subcommittee meeting would be scheduled in August 2021.

This topic will remain on the Board's agenda moving forward.

6. Executive Director Matthew Keigan informed the Board that at last month's meeting (5/27/2021) Chairman Paul Tyrell had provided an article regarding the use of drones for aerial imagery/ photography v. mapping for surveying for the Board to consider. He further stated that the article was in reference to a company in Worcester, MA called Alpinax and that Abbie Goodman, TECET, recommended that the Board review the language on the company's website, www.alpinax.com/survey.

Chairman Paul Tyrell reminded the Board that it had previously reviewed a similar website that contained language suggesting that the company was performing land surveying using drones. He stated that while Alpinax references the use of drones for mapping, he did not see language that specifically stated that they were performing boundary line surveying or other specific land surveying services. Rather, they were providing the raw GIS data that a licensed land surveyor would need when practicing land surveying.

Dan Caron indicated that a private citizen could use this website to purchase the data that a licensed land surveyor would utilize when performing land surveying work such as determining boundaries and property lines.

Azu Etoniru stated that he did not see any language to suggest that Alpinax was providing reference points as part of their services. If they were, then in his opinion, they would be performing land surveying and would need a license.

Dan Caron then suggested that these types of companies be advised to add a disclaimer to their website making it clear that they only provide the raw GIS data and not actual surveys which would require a licensed PLS.

Kenneth Anderson agreed and stated that the language that they use is just ambiguous enough that a lay person may believe that they perform land surveying work.

Sheila York advised the Board that at this time, given the points discussed by the Board, there did not appear to be grounds to initiate action against the company.

7. Executive Director Matthew Keigan provided the Board with a memo from Tim Miller, P.E., NCEES Chief Officer of Examinations. The memo outlined the Spring 2022 changes to various NCEES exams as well as information related to specific Fall 2021 exams. The memo was intended as informative and no discussion was held.
8. Executive Director Matthew Keigan provided the Board with a memo and brief from David Cox, NCEES Chief Executive Officer regarding the Washington Accord. The memo and brief were intended as a replacement for the NCEES November 2005 memo outlining concerns with accepting Washington Accord programs as ABET equivalent.

Chairman Paul Tyrell walked the Board through International Mutual Recognition Agreements (MRA), the International Engineering Alliance (IEA), and specifically, the Washington Accord. He further stated that the Board would continue to rely on NCEES to perform credential evaluations for any applicant with a BS degree from an engineering program that is not accredited by ABET.

9. Sheila York provided the Board with an update on the email from James Hall, dated November 9, 2020, regarding the Swansea Board of Health's proposal for "local licensure."

Sheila York indicated that the draft letter discussed during the May 2021 meeting had been finalized and provided to the DPL's General Counsel for review. DPL's GC requested that she first reach out to Swansea for further information. She stated that she had spoken with the Swansea Board of Health and gathered additional information including a copy of the proposed regulations which would be provided to the DPL's General Counsel for review. She also reached out to the AGO seeking information about the status of that Office's review of the Swansea by-law. They told her the AAG reviewing the bylaw would be in contact with her.

The Board was in agreement that due to the level of concern, a copy of the letter should also be provided to the Massachusetts Attorney General for consideration.

10. Sheila York informed the Board that there was no new update on the status of draft language regarding Continuing Professional Competency (CPC).
11. Sheila York asked Board members if they had reviewed the updated draft language in "Professional Practice, A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts."

She stated all of the Architect Board's edits had been incorporated in the draft provided.

Kenneth Anderson asked if a statement should be added that clearly outlines what a Professional Engineer (P.E.) or Professional Land Surveyor (PLS) is allowed to do under the regulations. He stated that such a statement may be beneficial to cities/towns/municipalities.

Azu Etoniru thanked Sheila York for all her hard work and assistance with the revision of the handbook.

The question of whether or not Civil Engineers should still be allowed to practice land surveying incidental to civil engineering work as stated in the regulations was raised. Considering that many civil engineering programs currently offered have dropped or severely reduced the land surveying course work from their curriculum, this may be something that the Board should re-consider. Sheila York reminded the Board that the provision allowing civil engineers to perform incidental land surveying, excluding property line determinations, was in the statute and could not be eliminated through a regulation change. The Legislature would need to change the licensing statute.

Sheila York stated that she would work on a statement to be added to the draft joint policy to notify readers, especially town officials, of services requiring a PLS and services requiring a PE. She will provide a revised draft to Board members for their review and discussion at a future meeting.

12. Sheila York stated that there were no additional pending legal matters that required discussion that this time.
13. Executive Director Matthew Keigan informed the Board that after review of the NCEES Enforcement Exchange, three (3) new complaints were opened against licensees for failure to notify Massachusetts of the discipline in another jurisdiction within the thirty (30) day window to report such discipline as outlined in the regulations. He further stated that there were no items that required monitoring this month.
14. Executive Director Matthew Keigan advised the Board that the case tracking spreadsheet that was distributed to all members had been updated.
15. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Ronald Willey motioned, seconded by Joyce Hastings to accept the report and ratify the application approvals. Motion passed with a vote of 9-0. Members in Favor: Joyce Hastings, Dan Caron, Azu Etoniru, Kenneth Anderson, Paul Tsang, Maurice Pilette, Shannon Slaughter, Paul Tyrell, and Ronald Willey. Members opposed: None.
16. Joyce Hastings gave the Board a report on the one (1) interview that was conducted by the Land Surveyor Interview Committee. She informed the Board that the applicant was

from out-of-state. The applicant was recommended to move forward. The full breakdown is as follows:

- Applicant 1021783: Committee recommends this applicant be approved to take the Jurisprudence exam; Ronald Willey motioned to adopt the committee's recommendation, seconded by Kenneth Anderson. Motion passed with a vote of 9-0. Members in Favor: Joyce Hastings, Dan Caron, Azu Etoniru, Kenneth Anderson, Paul Tsang, Maurice Pilette, Shannon Slaughter, Paul Tyrell, and Ronald Willey. Members opposed: None.

17. Executive Director Matthew Keigan briefed the Board regarding an item that was received less than 48 hours prior to the Board meeting.

Executive Director Matthew Keigan briefed the Board regarding an email from Liem V. Tran, Assistant Dean of Academics/Director of Division of Professional and Continuing Studies at Benjamin Franklin Institute of Technology (BFIT), dated June 22, 2021.

BFIT is currently in the process of launching a Professional Land Surveying Training Certificate program to prepare industry professionals for the MA board exam. The certificate will provide 20 college credits of lectures and labs.

Sheila York stated that she does not recall the Board performing a pre-review of a school's intended curriculum prior to the program being offered.

Kenneth Anderson stated that Wentworth Institute of Technology (WIT) did not receive a review by the Board of their surveying program curriculum.

Vice Chairman Ronald Willey stated that additional information would be needed for review such as a more detailed breakdown of the program curriculum; whether or not a licensed PLS would be providing instruction; etc.

Executive Director Matthew Keigan and Sheila York agreed that more information would be needed from BFIT and recommended reaching out to Mr. Tran to request additional information as well as extend an offer for him to participate in a future Board meeting to answer any questions that the Board may have.

Eric Funk stated that he would contact Mr. Tran regarding the additional documentation and to extend the offer to participate in a future meeting.

18. Chairman Paul Tyrell noted that there were no further topics for discussion at the Open Meeting Session.

19. Vice Chairman Ronald Willey motioned, seconded by Joyce Hastings, to enter into Closed Quasi-Judicial Session pursuant to G.L. c. 30A, §18 to deliberate on the issuance of a Final Decision and Order in the matter of 2020-000132-IT-ENF. Motion passed with a vote of 9-0. Members in Favor: Joyce Hastings, Dan Caron, Azu Etoniru, Kenneth Anderson, Paul Tsang, Maurice Pilette, Shannon Slaughter, Paul Tyrell, and Ronald Willey. Members opposed: None.

Report of actions taken in quasi-judicial session:

- Board voted to issue final decision by default in 2020-000132-IT-ENF..

20. At 11:24AM Vice Chairman Ronald Willey motioned, seconded by Kenneth Anderson, to suspend the open session and enter into Closed Executive Session pursuant to G.L. c. 30A, §21(a) (1) to discuss the character, rather than competency of Licensee Applicant G.B. Motion passed with a vote of 9-0. Members in Favor: Joyce Hastings, Dan Caron,

Azu Etoniru, Kenneth Anderson, Paul Tsang, Maurice Pilette, Shannon Slaughter, Paul Tyrell, and Ronald Willey. Members opposed: None. The Chairman stated that he expected to be in Executive Session for approximately twenty (20) minutes.

21. At 11:42AM, the Board voted to enter into Closed Investigative Session under M.G.L. c. 112 §65C. Motion passed with a vote of 9-0. Members in Favor: Paul Tsang, Azu Etoniru, Maurice Pilette, Kenneth Anderson, Joyce Hastings, , Shannon Slaughter, Ronald Willey, and Paul Tyrell. Members opposed: None.

Report of actions taken during closed investigate conference:

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| ➤ 2021-000124-IT-ENF: | Dismiss without Prejudice |
| ➤ 2021-000214-IT-ENF: | Dismiss with Advisory Letter |
| ➤ 2021-000217-IT-ENF: | Refer to Prosecutions |
| ➤ 2021-000335-IT-ENF: | Dismiss with Advisory Letter |
| ➤ 2021-000170-IT-ENF: | Dismiss with Advisory Letter |
| ➤ 2021-000183-IT-ENF: | Dismiss with Advisory Letter |

Respectfully submitted by,



Eric Funk
Board Administrator

Documents used at the public meeting

- Agenda for June 24, 2021 Meeting
- Draft Minutes of May 27, 2021 Open Meeting
- Copy of article from the Associated Press titled "Drone operators challenge surveyors' turn in mapping dispute."
- June 2021 Application Report
- Email from Liem V. Tran, Assistant Dean of Academics/Director of Division of Professional and Continuing Studies at Benjamin Franklin Institute of Technology (BFIT), dated June 22, 2021, regarding proposed Professional Land Surveying Training Certificate program.