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Commonwealth of Massachusetts
Division of Professional Licensure
Board of Registration of Professional Engineers
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AFFAIRS AND BUSINESS
REGULATION

DIANE SYMONDS
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Minutes of the October 24, 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
Ronald Willey, PE, Vice Chairman
Daniel Caron, PE
Erin Joyce, PE
Paul Tsang, PE
Shannon Slaughter, Public Member
Joyce Hastings, PLS
Azu Etoniru, PE, PLS
Maurice Pilette, PE

Board Members Absent

Members of the Public Present

Abbie Goodman, TECET
Andrew Irwin, PE, Irwin Engineers

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 and notified attendees of the evacuation procedures.
2. The Board reviewed the minutes of the September 26, 2019 Open Meeting. Azu Etoniru moved, seconded by Joyce Hastings, to accept the meeting minutes with a minor edit on page 2. Motion passed with a vote of 10-0.
3. The Board reviewed the minutes of the September 26, 2019 Executive Session. Dennis Drumm moved, seconded by Azu Etoniru, to accept the meeting minutes and to hold them confidential until the purpose of the executive session has expired. Motion passed with a vote of 8-0-2. Dan Caron and Joyce Hastings abstained from the vote.
4. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on November 21, 2019.
5. Executive Director Matthew Keigan provided the Board with the draft nomination letter for Chairman Paul Tyrell for the position of Treasurer of NCEES. Upon review by the Board, Dennis Drumm motioned, seconded by Azu Etoniru, to accept the nomination letter with a few small edits. Motion passed with a vote of 10-0.



6. Prior to discussing the Department of Public Utilities (DPU) Straw Proposal Order (DPU 19-34) Chairman Paul Tyrell gave the Board a quick review of the Merrimack Valley natural gas explosion tragedy of September 2018 and the emergency order and requirement for new regulations.

Ronald Willey and Dennis Drumm commented that they saw no issue with the Order.

Sheila York informed the Board that she found the title "Professional Engineer Regulations" potentially confusing as it does not differentiate between the Board of Registration of Professional Engineers and Professional Land Surveyors regulations and the DPU proposed regulations.

Chairman Paul Tyrell informed the Board that a number of the topics included in the Order had been brought to the attention of the DPU by the Board during a previous comment period.

Erin Joyce inquired about the DPU's indication that the Order delineates how natural gas companies are to use professional engineers on complex projects. Chairman Paul Tyrell stated that the term is defined in the Order and that the Board provided comment of what constituted a complex project during a previous comment period.

Chairman Paul Tyrell acknowledged a member of the public in attendance, Andrew Irwin, and opened the floor to him for comment. Andrew Irwin pointed out that on page 3, section 103 (2), the language states, "A Professional Engineer must ensure that the plan or specification conforms to the applicable pipeline safety laws, regulations, and standards..." Andrew Irwin found the use of the word "ensure" as setting a very high bar.

Maurice Pilette asked Sheila York what the DPL's timetable for response was. Sheila York stated that written comments from the DPL were due by 5:00 p.m. on November 11, 2019.

Abbie Goodman informed the Board that ACEC/MA would be submitting technical edits.

Ronald Willey stated that he was concerned that a large company could potentially exert pressure on the process.

Maurice Pilette commented that he is concerned that the foundation for rubber stamping is being laid.

The Board asked Sheila York to submit comments regarding the concern with the title of the regulations and suggest capitalizing complex projects to show it is a defined term.

7. Chairman Paul Tyrell again opened the floor to Andrew Irwin who wished to speak on the Rules of Professional Conduct and why the language in 250 CMR 5.02 (1) does not also include "and protect the environment" within the scope of a Professional Engineer's ethical duties.

Andrew Irwin provided the Board with a written copy of his prepared remarks which detailed his request for a change to the language in 250 CMR 5.02 (1) to include the language "and protect the environment."

Dennis Drumm acknowledged that while 250 CMR 5.02 (1) does not specifically state "and to protect the environment," the language does in fact cover this by stating "A Registrant shall hold paramount the health, property and welfare of the public in the performance of the Registrant's duties. He further stated that adding "and protect the environment" could potentially open engineers and land surveyors to unfounded complaints.

Sheila York stated that if the Board were to consider the addition of such language to the current regulations, the process to do so would be quite lengthy.

Erin Joyce stated that she found the topic interesting in that the protection of the public is sometimes in conflict with protection of the environment. She further inquired if NCEES had taken this topic under advisement?

Dan Caron voiced his concern about the potential negative impact to engineers and land surveyors from unfounded complaints or complaints that are not based on the facets of the particular project.

Shannon Slaughter and Maurice Pilette both found "and protect the environment" to be too broad based in scope.

Paul Tsang stated that engineers and land surveyors must comply with code and requirements but project limits must also be taken into account.

Chairman Paul Tyrell inquired as to whether or not there was a compelling need to make such a change.

Andrew Irwin stated that there should be an expectation of care for the environment.

Chairman Paul Tyrell noted that there were no further comments from the Board and thanked Mr. Irwin for his time.

8. Sheila York briefed the Board on the status of draft language regarding Continuing Professional Competency (CPC) stating that they were still under review internally here at the DPL.
9. 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 and the review was ongoing.
10. Sheila York informed the Board that there was no update at this time regarding "Professional Practice, A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts."
11. 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.

12. Executive Director Matthew Keigan reminded the Board that mandatory Ethics Training should be completed as soon as possible and the certification should be forwarded to his attention.

13. Matthew Keigan stated that the Board Docket No. 2018-000668-IT-ENF was now closed.

14. Matthew Keigan informed the self-report of discipline from Licensee No. 54142-C was on the agenda in error and required no Board action.

15. Matthew Keigan stated that the Board Docket No. 2018-000668-IT-ENF was now closed. Dennis Drumm discussed the procedure to follow prior to executing consent agreements.

16. At 10:00AM, the Board voted to enter into Closed Investigative Session under M.G.L. c. 112 §65C. Motion passed with a vote of 9-0.

Report of actions taken during closed investigate conference:

- EN 2018-0412: Forward to Office of Prosecutions. Shannon Slater recused herself from this discussion and left the room.
- EN-2019-0733: Dismissed with an advisory
- EN-2019-0734: Dismissed without prejudice
- EN-2019-0732: Forward to Office of Prosecutions

17. Open session resumed at 10:17AM.

18. At 10:20AM Chairman Paul Tyrell noted that there were no further topics for the public Board meeting. Dennis Drumm motioned to adjourn. Azu Etoniru seconded. Motion passed unanimously.

Respectfully submitted by,



Eric Funk
Board of Registration of Professional Enqin...

Documents used at the public meeting

- Agenda for October 24, 2019 Meeting
- Draft Minutes of September 26, 2019 Open Meeting
- DPU 19-34 Straw Proposal Order.
- Copy of Prepared Remarks from Andrew Irwin, PE, LPS, Irwin Engineers