



MAURA HEALEY
GOVERNOR

KIM DRISCOLL
LIEUTENANT GOVERNOR

YVONNE HAO
SECRETARY, EXECUTIVE OFFICE
OF ECONOMIC DEVELOPMENT

Commonwealth of Massachusetts
Division of Occupational Licensure

1000 Washington Street, Suite 710
Boston, Massachusetts 02118

LAYLA R. D'EMILIA
UNDERSECRETARY, CONSUMER
AFFAIRS AND BUSINESS
REGULATION

SARAH R. WILKINSON
COMMISSIONER, DIVISION OF
OCCUPATIONAL LICENSURE

DRAFT Minutes of the November 20th, 2024, Open Meeting

Meeting was held 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 Remotely:

Paul Tyrell, Chair
Ronald Willey, PE, Vice Chairman
Daniel Caron, PE
Joyce Hastings, PLS
Paul Tsang, PE
Kenneth Anderson, PLS
Edward Englander, Esq., Public Member
Shallan Fitzgerald, PE

Board Members Not Present:

Paul Tyrell, PE, PLS, Chairman

Members of the Public Present

Abbie Goodman

Division Staff Members Present

at Various Times during the Meeting:

Colleen Maloney, Deputy Commissioner of Boards and Policy
Philip Chan, Board Counsel
Eric Funk, Board Administrator
Kathleen McNally, Executive Director of Engineer and Land Surveyor Board

1. At 9:02 A.M. Executive Director Kathleen McNally announced the opening of the meeting, that there was a quorum present. She provided notice that pursuant to M.G.L. Ch. 30A, § 20, the meeting would be recorded.
2. The Chair requested a motion to open the meeting, moved by Ed Englander seconded by Ron Willey. The motion passed unanimously, with a vote of 8-0. Members in Favor: Paul Tyrell,



Joyce Hastings, Paul Tsang, Ronald Willey, Dan Caron, Ken Anderson, Shallan Fitzgerald, and Ed Englander. Members opposed: None. Members abstaining: None.

3. The Chair noted a slate of minutes to approve and asked about an amendment to the September minutes. Executive Director Kathleen McNally noted she needed to amend the September agenda to note updated investigative conference dispositions. Chair asked about a single roll call vote. Ron Willey asked if Dan Caron agreed with the amendments, and Dan Caron agreed. Chair requested a motion to accept July, September, and October minutes. Moved by Ron Willey, seconded by Dan Caron. The motion passed unanimously, with a vote of 8-0. Members in Favor: Paul Tyrell, Joyce Hastings, Paul Tsang, Ronald Willey, Dan Caron, Ken Anderson, Shallan Fitzgerald, and Ed Englander. Members opposed: None. Members abstaining: None.
4. The Chair issued a safety moment and noted the ongoing drought. The Chair recommended reconsidering burning leaves during this drought and exercising fire safety.
5. The Chair asked the Board to confirm their December availability and confirmed there were no conflicts.
6. The Chair presented proposed 2025 meeting dates. He would like to continue checking availability monthly and requested the Executive Director send out calendar invites for the year. Chair requested a motion to accept the dates. Moved by Dan Caron and seconded by Ken Anderson. The motion passed unanimously, with a vote of 8-0. Members in Favor: Paul Tyrell, Joyce Hastings, Paul Tsang, Ronald Willey, Dan Caron, Ken Anderson, Shallan Fitzgerald, and Ed Englander. Members opposed: None. Members abstaining: None.
7. Chair facilitated discussion around licensee requirements and if/how those intersect with the State Building Code, specifically around affidavits that must be submitted alongside drawings. Chair turned the floor over to Dan Caron. Dan noted it is not a requirement of the Board, but rather the municipality the Engineer is working in. Is there a requirement within the Board rules that states the Engineer needs to oversee the construction to make sure it is done in accordance with their drawings? Ken Anderson stated he does not know of any and believes it is with the municipality. Board Counsel Philip Chan noted he looked into this and flagged possibly 250 CRM 5.03(14), and noted the registrant may assume but it does not say they must. The Chair felt the section more covers when a registrant needs to take over a project from a licensee who is no longer practicing, with the firm, etc. Dan Caron asked about 5.02 professional conduct and asked if it is addressed in that section. For example, if someone begins installing something in the field that does not meet the Engineer's design and the Engineer feels it is a danger to the public, they should step in, and that is the only duty of the licensee. The Chair asked for additional context. Dan Caron noted his colleague had a client directing plans different than the initial design, which wasn't egregious but the Firm wanted to determine any legal requirements for certain situation.
8. Board Counsel Philip Chan presented his legal report. He reported on the status of the CPC Regulations. Attorney Chan spoke with his supervisor about the Chairs concern around the timing of the Regulations. Chair feels this is a safety issue and is concerned about the time it is taking to approve these. Board Counsel will relay this information to the Deputy General Counsel.
9. Board Counsel Philip Chan noted he will be reviewing policies of the Board.

10. Chair asked that we reflect in the meeting minutes how long the Board has been waiting for the regulations.
11. Executive Director Kathleen McNally presented the Executive Director report and advised the Board that she continues to work through the NCEES Enforcement Exchange backlog and uploading case outcomes to the NCEES Enforcement database. She reported that she works in NCEES database every day verifying licenses and updating disciplinary actions. Noted that any Board members having issues with NCEES to please let her know.
12. Executive Director McNally informed the Board that at this time the complaint tracking spreadsheet is current, and she is working through open Enforcement cases.
13. Executive Director Kathleen McNally informed the Board the CBT (computer-based testing) status for JP Land Surveying exam, which is still offered in paper, is the same. She is working with the Agency on the contract amendment and proposed costs to moving the exam online. Chair noted he would be happy to work with Ron Willey to provide some assistance. Agency is going to look into sharing the contract with the Board. Chair began inquiring about administration of the digital exam. The Executive Director noted that wouldn't change. Chair inquired about fees, and the Executive Director noted she will continue looking into it. Chair noted the seat charge changes and may be updated during the next contract. Chair would like the exam sub committee to meet to go over the exam bank, multiple choice collaboration, etc.
14. Executive Director Kathleen McNally informed the Board that there are two consent agreements, with the first with docket number 2022-000971-IT-ENF. The disposition agreed upon in this matter was a six-month suspension on his civil engineer's license, and a \$200 fine in October, which will go into NCEES. He has to petition to get the suspension lifted. Additionally, the Board processed 2023-000672-IT-ENF, with the Land surveyor receiving a reprimand, and will be reported to NCEES. There were no other final decisions and orders to be reported to the Board this month.
15. Executive Director Kathleen McNally gave a reminder of the upcoming move in March of 2025.
16. Azu Etoniru entered the meeting at 9:30 a.m.
17. Eric Funk gave the application report and submitted applications for review to Board members. Chair confirmed with Eric there were no suitability questions. Moved by Ed Englander seconded by Ron Willey to accept the application report submitted to the Board. A roll call vote was taken. The motion passed unanimously, with a vote of 9-0. Members in Favor: Paul Tyrell, Joyce Hastings, Paul Tsang. Ronald Willey, Dan Caron, Ken Anderson, Shallen Fitzgerald, Azu Etoniru and Ed Englander. Members opposed: None. Members abstaining: None.
18. There were no topics submitted in correspondence to the Board for discussion.
19. Chair asked if there was a public comment for the Board.
20. Ken Anderson asked if a business that is not registered with the Secretary of State can offer Engineering and Land Surveying services if they have no licensed professionals as W2 employees. Chair asked about section 5.05, and Board Counsel noted that business entities may provide services only if an Engineer or Land Surveyor has management responsibility of that part of the

business. Counsel noted that typically someone in management would receive a W2, and cannot be characterized as an independent contractor but rather a part of the company. Chair also noted 5.05(2) addresses scope. Ken asked about businesses stating they are a corporation, using the title 'Inc.' but there is no filing with the Secretary of State, and Board felt that is an issue.

21. The Executive Director noted an unanticipated item for the December meeting regarding NCEES exam policies and questions. This will be added to the December meeting.

22. At 9:40AM a motion to close the public meeting moved by Ed Englander, seconded by Ken Anderson. A roll call vote was taken, Members in Favor: Nancy Gould, Joyce Hastings, Paul Tsang, Ronald Willey, Dan Caron, Ken Anderson, Azu Etoniru, Ed Englander, and Shallen Fitzgerald. Vote passed unanimously, 9-0. Members opposed: None. Members abstaining: None.

23. Investigative Conference Case Status and Disposition Report

2024-000268-IT-ENF – Referred to Prosecutions

2024-000269-IT-ENF – Referred to Prosecutions

2024-000287-IT-ENF - Dismissed

2024-000566-IT-ENF - Dismissed

2024-000586-IT-ENF – Referred to Prosecutions

Respectfully submitted by,

Colleen Maloney,
Acting Executive Director

Documents use at the public meeting:

- Agenda for September 26, 2024, Meeting
- Draft Minutes from August 29, 2024, Open Meeting
- Signed Consent Agreement in the Matter of 2023-000100-IT-ENF.

