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Minutes of the April 24, 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, PE, PLS, Chairman
Ronald Willey, PE, Vice Chairman
Azu Etoniru, PE, PLS
Daniel Caron, PE
Paul Tsang, PE
Nancy Gould, PE

Board Members Absent

Edward Englander, Esq., Public Member
Joyce Hastings, PLS
Kenneth Anderson, PLS

Members of the Public Present

Abbie Goodman, TECET
Zachary O'Hara, PE License Applicant
Kevin Flowers, PLS License Applicant

**Division Staff Members Present
at Various Times during the Meeting:**

Kathleen McNally, Executive Director of Various
Boards
Philip Chan, Board Counsel
Jenna Hentoff, Board Counsel
Eric Funk, Board Administrator

1. At 9:02AM, Executive Director Kathleen McNally provided notice that pursuant to M.G.L. Ch. 30A, § 20, the meeting would be recorded.



2. At 9:02A.M., Nancy Gould motioned, seconded by Ronald Willey, to open the meeting. Motion passed unanimously with a vote of 6-0. Members in Favor: Paul Tsang, Nancy Gould, Paul Tyrell, Ronald Willey, Azu Etoniru, and Dan Caron. Members opposed: None.
3. The Board reviewed the minutes of the February 22, 2024 Open Meeting. Ronald Willey moved, seconded by Nancy Gould, to accept the minutes as written. Motion passed with a vote of 5-0-1. Members in Favor: Paul Tsang, Nancy Gould, Paul Tyrell, Ronald Willey, and Dan Caron. Members opposed: None. Members abstaining: Azu Etoniru.
4. The Board reviewed the minutes of the March 28, 2024 Open Meeting. Azu Etoniru moved, seconded by Ronald Willey, to accept the minutes with a minor edit to section #17. Motion passed unanimously with a vote of 6-0. Members in Favor: Paul Tsang, Nancy Gould, Paul Tyrell, Ronald Willey, Azu Etoniru, and Dan Caron. Members opposed: None.
5. Chairman Paul Tyrell's safety item focused on sunscreen. He reminded the Board that with the warmer summer months approaching, it's important to remember to wear sunscreen or sun protection when participating in outdoor activities.
6. Chairman Paul Tyrell informed the Board that the next meeting was scheduled to be held on May 30, 2024. No conflicts were noted.
7. Board Counsel Phil Chan provided the Board with an update on the topic from last month pertaining to the quality of filings at the Registry of Deeds. He stated that he and Jenna Hentoff spoke with General Counsel and other Board staff regarding how best to move forward with this matter. He stated that at the present time, all options are on the table for discussion.

Phil Chan briefly mentioned an email and letter that had been provided by Kenneth Anderson for discussion. The matter was tabled until the May 30, 2024 meeting, as Kenneth Anderson was not in attendance.

Chairman Paul Tyrell commented that the Architect Board should also be consulted or involved in the discussions because many of the issues are the result of filings made by architects.

8. Board Counsel Phil Chan informed the Board that the draft language for Continuing Professional Competency (CPC) regulations remains under review by the Governor's Legal Office.

Chairman Paul Tyrell asked for a more detailed update be provided at the May 30, 2024 meeting.

9. Board Counsel Phil Chan informed the Board that an expert witness may be needed for a Hearing in October. He further stated that a Board member may also be needed to attend. Chairman Paul Tyrell and Vice Chair Ron Willey stated that they could attend.

Board Counsel Phil Chan stated more details will follow.

10. Board Counsel Phil Chan informed the Board that there were no further legal topics for discussion.
11. Executive Director Kathleen McNally advised the Board that she continues to work through the NCEES Enforcement Exchange backlog and uploading case outcomes to the NCEES

Enforcement database.

She also informed the Board that the revised and updated complaint tracking spreadsheet continues to undergo review and updating. She further stated that the process has been completed for 2022 and is still working through 2023 cases.

In addition to the above, she again advised Chairman Paul Tyrell that she was working with NCEES to resolve login credential issues she was experiencing as well as obtaining credentials for him and members of OI as was previously requested.

12. Executive Director Kathleen McNally advised the Board that a reconvening of the State Specific Jurisprudence (JP) Exam CBT Conversion Subcommittee was being discussed for some point in May. She reminded the Board that the underlying existing contract language review was complete, and the hope was to advance the discussions with the vendor to the next phase as well as touch on related questions pertaining to the question bank, scope and format of proctoring, etc.
13. Executive Director Kathleen McNally reminded the Board that the NCEES Annual Meeting would take place in Chicago on August 14-17, 2024. She stated that the travel authorization forms would be sent out the following week.
14. Executive Director Kathleen McNally informed the Board that there were no consent agreements or final decision and orders for notice this month.
15. Chairman Paul Tyrell recognized PE applicant Zachary O'Hara and opened the floor to him to raise his questions regarding the status of his application for licensure by comity.

Mr. O'Hara provided an overview of his current application that was before the Board, stating that he did not understand why his application had not been approved as he believed he met the requirements for licensure by comity.

Chairman Paul Tyrell addressed Mr. O'Hara's questions regarding how the licensure by comity process works and clarified that simply holding a P.E. license from another state does not automatically result in licensure in Massachusetts. He clarified that construction was not considered the practice of engineering under the Board's regulations, specifically 250 CMR 3.05 (10). He further explained that in addition to holding a P.E. license in another state, an applicant must still meet the requirements of 250 CMR 3.00, which to date he has not done.

Eric Funk then provided Mr. O'Hara with a full accounting of the Board's reviews of his original application for licensure by examination and his current application for licensure by comity. He detailed for Mr. O'Hara how his application documents had failed to meet the standards of 250 CMR 3.04 (4), Table I; 250 CMR 3.05 (2); and 250 CR 3.05 (10). He further explained how Mr. O'Hara could address the deficiencies with his documentation and resubmit it to the Board for further review.

Mr. O'Hara acknowledged his understanding of the Board's position and indicated that he would work to gather the appropriate documentation for resubmission to the Board.

16. Presentation of the applicant interviews that were conducted by the Oral Exam/Interview Committee on April 11, 2024 and April 18, 2024, was tabled until the May 30, 2024 meeting as Joyce Hastings was not in attendance to provide the report.
17. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Azu Etoniru moved, seconded by Nancy Gould, to accept the report and ratify the

application approvals. Motion passed unanimously with a vote of 6-0. Members in Favor: Paul Tsang, Nancy Gould, Paul Tyrell, Ronald Willey, Azu Etoniru, and Dan Caron. Members opposed: None.

18. Chairman Paul Tyrell opened the meeting for public comment and recognized Abbie Goodman who stated that she had emailed a contact at Administration and Finance (A&F) who is involved in the review of the CPC regulations, asking for a status update.

Abbie Goodman also stated that she believes that the number of finalized consent agreements would be reduced if there were mandatory Continuing Education requirements in place as people would be much more aware of what they were supposed to be doing to be in compliance. She further stated that she would share any response she received from A&F.

19. At 10:14AM, Kenneth Anderson moved, seconded by Ed Englander, to end the Open Session of the meeting and enter Closed Quasi-Judicial Session pursuant to G.L. c. 30A, §18. Motion passed unanimously with a vote of 6-0. Members in Favor: Paul Tsang, Nancy Gould, Paul Tyrell, Ronald Willey, Azu Etoniru, and Dan Caron. Members opposed: None.

Report of actions taken during closed investigate conference:

- 2022-000159-IT-ENF: Send back to Prosecutions

20. At 10:26AM, Ronald Willey moved, seconded by Nancy Gould to exit closed session and adjourn the meeting. Motion passed unanimously with a vote of 6-0. Members in Favor: Paul Tsang, Nancy Gould, Paul Tyrell, Ronald Willey, Azu Etoniru, and Dan Caron. Members opposed: None.

Respectfully submitted by,

Eric Funk (e.s)

Eric Funk
Board Administrator

Documents used at the public meeting:

- Agenda for April 24, 2024 Meeting
- Draft Minutes of February 22, 2024 Open Meeting
- Draft Minutes of March 28, 2024 Open Meeting
- Comity Application Documents for Applicant #1032817