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BUSINESS REGULATION

CHARLES BORSTEL
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Minutes of the May 25, 2017 Open Meeting

Board members arrive early and begin processing applications. The following attendance was recorded:

Board Members Present

Paul Tyrell, PE, Chairman
Joel Goodmonson, PE
Maurice Pilette, PE
Edward Englander, Esq., Public Member
Peter Hale, PLS, Secretary
Scott Cameron, PLS
Daniel Caron, PE

Board Members Absent

Ronald Willey, PE
Dennis Drumm, PLS
Paul Tsang, PE

Members of the Public Present

Division Staff Members Present

at Various Times during the Meeting:

Sheila York, Board Counsel
Clinton Dick, Executive Director
Eric Funk, Board Administrator
Seth Henderson, Prosecuting Counsel

1. Chairman Paul Tyrell opened the meeting at 9:45am and notified attendees of the evacuation procedures.
2. The Board reviewed the minutes of the April 20, 2017 Open Meeting. Scott Cameron moved, seconded by Ed Englander, to accept the meeting minutes. Motion passed unanimously.
3. Chairman Paul Tyrell informed the Board that he and Ron Willey would be attending the NCEES 2017 Annual Meeting taking place August 23rd-26th in Miami, Florida as funded officers. He then asked if any other members had considered attending the meeting. Maurice Pilette, Scott Cameron, and Ed Englander all indicated that they would like to attend as funded delegates.

Ed Englander raised a concern regarding the amount of money currently residing in the NCEES Reserve Fund. He further stated that he feels that the amount is high considering it is a national non-profit organization.

Joel Goodmonson asked whether or not it would be appropriate for a Member Board to notify NCEES that they are not comfortable with the size of the Reserve Fund.



Sheila York inquired about the amount of dues that the State pays to be a NCEES Member Board.

Chairman Paul Tyrell informed the Board that NCEES has tasked a subcommittee with reviewing the Reserve Fund and making recommendations for its use.

Joel Goodmonson recused himself from the next topic of discussion.

4. Chairman Paul Tyrell provided a brief update on the Continuing Professional Competency (CPC) Subcommittee's recommendations report.

Paul Tyrell reiterated that he hoped that the full board would be present to vote on the recommendations put forth by the subcommittee. He further stated that the as previously discussed, the July 27, 2017 meeting would be the earliest date that the vote could take place.

After a brief discussion with Maurice Pilette, Paul Tyrell stated that should the full Board not be available at the July meeting, the vote would still proceed.

Paul Tyrell stated that the Vermont Board plans to conduct an audit of continuing education competency only when a complaint arises.

Paul Tyrell further stated that should the Board vote to change the CPC requirements, further discussion would need to take place to flesh out how the Board would handle any changes.

Sheila York informed the Board that a vote should be taken to accept the proposed agreement to hold the vote at the July 2017 meeting even if the full Board is not present.

Ed Englander motioned, seconded by Scott Cameron to hold discussion and vote on proposed changes to the regulations at the July 22, 2017 Board meeting even if all members are not present. Motion was unanimous. Joel Goodmonson was recused and did not vote.

5. Sheila York briefed the Board regarding correspondence received by the Board from Charles Thompson of the Mashpee Wampanoag Service Unit pertaining to the US Government's Indian Health Service Sanitation Facilities Construction Program (the "SFC Program") and whether engineers employed by the U.S. government (SFC program engineers) who do not hold a PE license in Massachusetts may perform engineering services for SFC program projects within Massachusetts.

Sheila York stated that, primarily, the correspondence dealt with SFC program engineers who would be working on water and waste water projects that will serve private residential homes within Massachusetts. The engineering work would not be done on federal land and would not service a federal building.

Joel Goodmonson stated that if the work to be performed was not for the Federal Government or on Federal/Government land, the work would need to be performed by a Massachusetts licensed engineer.

Ed Englander stated that he agreed with Joel Goodmonson that the work would need to be performed by a locally licensed engineer.

Sheila York stated that she would respond to Mr. Thompson with the Board assessment that the project would require a Massachusetts licensed engineer / land surveyor.

6. At 10:05 am, Ed Englander motioned, seconded by Joel Goodmonson to suspend the open session and enter into Closed Session under M.G.L. c. 112 §65C to discuss settlement terms in 20150701EN002-IT-ENF. Motion was unanimous.
7. Report of actions taken during closed investigate conference:
 - 20150701EN002-IT-ENF: Guidance regarding settlement terms provided to Prosecutor
8. Open session resumed at 10:25AM.
9. Executive Director Clinton Dick reminded the Board members that if they plan to attend the NCEES 2017 Annual Meeting in Miami, Florida, they will need to submit their travel and ethics forms by June 20, 2017. Additionally, he reminded the Board to submit their monthly meeting travel reimbursement forms by the end of June.

Clinton Dick informed the Board that he would send an email to them with responses to the general description questions on the travel and ethics forms for the NCEES Annual Meeting.

Clinton Dick stated that the Board received a Self-Report of discipline from Licensee #50728-C. The Licensee had failed to report to the OH Licensing Board that disciplinary action had been taken against his license in NY and WI. Clinton Dick informed the Board that the Licensee had properly reported such discipline to MA.

The Board determined that they will take no action against Licensee.

Clinton Dick stated that the Board received a Self-Report of discipline from Licensee #35242-M. The Licensee had failed to report to the OH Licensing Board that disciplinary action had been taken against his license in NY.

The Board stated that if Licensee #35242-M had reported the NY discipline to the MA Board prior, then no further action would be taken. If that had not happened, then the matter needs to come back before the Board for further consideration.

Clinton Dick briefed the Board on Quarterly Report No. 1 in Docket No. EN-15-001, Licensee #49209-C. The report was provided to the Board per the consent agreement in the matter.

Ed Englander motioned, seconded by Scott Cameron to accept Quarterly Report No. 1. Motion was unanimous.

10. Sheila York informed the Board that the draft policy language for Non-ABET Degree application candidates was complete and ready for distribution to the members for review. The topic will be added to next month's agenda along with the other outstanding legal projects.
11. Clinton Dick presented the Board with a copy of a letter pertaining to scope of practice that the Board received from Michael Bruce, PE dated April 27, 2017.

Paul Tyrell commented that there were two (2) questions Mr. Bruce was asking. Question No. 1 asked whether a PE could certify the "layout, location, unit numbers and dimensions of the units as built." The second question asked whether the PE

could produce an as-built of a roadway and roadway infrastructure that shows “the actual ‘as built’ location and elevations of pavement and utilities to include the driveway openings, trees, signs and changes approved by the Planning Board.” 250 CMR 2.09 (3) and 250 CMR 6.02 address both questions.

After discussion, the Board was in agreement that a properly qualified EN licensed in the discipline of Civil is allowed by regulation to perform the incidental land surveyor work required to create an as-built roadway plan as described in Question No. 2. However, delineating the location of the condominium unit on a property as described in Question No. 1 would require determination of where a property line is located and thus falls outside of the scope of practice of a PE and would not be allowed.

12. At 11:01 am, Ed Englander motioned, seconded by Peter Hale to suspend the open session and enter into Closed Investigative Session under M.G.L. c. 112 §65C. Motion was unanimous.
13. Report of actions taken during closed investigate conference:
 - 2016-000687-IT-ENF: Refer to Office of Prosecutions. Joel Goodmonson recused and left the room during discussion of this matter.
 - 2017-000064-IT-ENF: Dismiss without prejudice
14. Open session resumed at 11:11AM.
15. At 11:13AM the Chair noted that there were no further topics for the public Board meeting. Scott Cameron motioned to adjourn. Ed Englander seconded. Motion passed.

Respectfully submitted by,

X 

Eric Funk
Board of Registration of Professional Enqin...

List of Documents Used in the Public Meeting:

- Agenda for the May 25, 2017 Board meeting
- Draft Minutes of the April 20, 2017 Board Meeting
- Quarterly Report No. 1, written by E. Eric Adams in Docket No. 15-001 for Licensee Elaine A. Huang, EN-492029-C
- Letter from Michael Bruce, Professional Engineer, dated 4/28/17, regarding scope of practice
- Self-Report of discipline from Licensee #50728-C, dated 5/5/17
- Self-Report of discipline from Licensee #35242-M, dated 4/24/17