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## Minutes of the January 25, 2018 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, Vice Chair PE  
Erin Joyce, PE  
Paul Tsang, PE  
Daniel Caron, PE  
Peter Hale, PLS, Secretary  
Joyce Hastings, PLS  
Maurice Pilette, PE

### Board Members Absent

Joanne Linowes, Public Member

### Members of the Public Present

Abbie Goodman, TECET  
Kenneth Anderson, TECET  
Caitlyn Angelini, AKF Group  
Elaine Huang  
Eric Adams, MIT  
Azu Etoniru, ET Engineering

### 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 9:05AM and notified attendees of the evacuation procedures.
2. The Board reviewed the minutes of the December 21, 2017 Open Meeting. Peter Hale moved, seconded by Dan Caron, to accept the meeting minutes. Maurice Pilette, Dan Caron, and Ron Willey abstained from the vote. Motion passed with a vote of 6-0.

The Board reviewed the minutes of the December 21, 2017 Executive Session. Peter Hale moved, seconded by Ron Willey, to accept the meeting minutes and to hold them confidential until the purpose for the executive session has transpired. Maurice Pilette, Dan Caron, and Ron Willey abstained from the vote. Motion passed with a vote of 6-0.

3. Sheila York distributed copies of the most recent draft language regarding Continuing Professional Competency (CPC) for their review and discussion.



Dennis Drumm informed the Board that the edits appearing in blue ink were the result of the Board's comments on the previous draft.

Sheila York stated that she was still conducting research into possible audit language for sections 7.02 and 7.03.

Dennis Drumm reminded the Board that during the subcommittee's research they were unable to find any studies or data in support of performing audits.

Paul Tyrell stated that the Board could codify the draft language as it is currently written and submit it for approval as that would not prevent the Board from addressing audits in the future.

Clinton Dick advised the Board that the question of necessity for CPC requirement in general could be raised during the review process based on the fact that no audit authority is included in the language.

Sheila York provided a quick summary of the review and approval process that the draft language would go through for the benefit of the new Board members.

Dennis Drumm moved to accept the draft as currently written and submit it for review. Ron Willey seconded the motion. Motion passed with a vote of 7-2 with Maurice Pilette and Dan Caron voting no.

4. Peter Hale spoke to the Board regarding an issue that has arisen during review of complaints by the Complaint Committee. The issue in question is the validity of engineering/land surveying work performed while a license is lapsed or expired.

Dennis Drumm stated that if engineering or land surveying work is performed during the time that a license is lapsed, the work was technically not performed lawfully. However, he further stated that as the license was once approved and in good standing, and if the licensee takes the required steps to get the license back into good standing, they are doing so under the current standards.

Sheila York stated that one of the issues that concerned the Board in prior cases was misrepresentation to the public by the licensee.

Clinton Dick reminded the Board that each engineer/land surveyor license is valid for two (2) years so if a license is lapsed, the licensee has two (2) years to get the license current before being required to file a reinstatement application. He further stated that such matters should be reviewed on a case by case basis with the focus being on unlawful practice, not competency.

Paul Tyrell asked if any members of the public in attendance wished to comment.

Ken Anderson offered that if a licensee with a lapsed or expired license states otherwise on a public document, which should be the threshold for Board action.

Abbie Goodman asked the Board if there would be a new policy or some other form of information that would be posted on the website regarding this issue. Sheila York stated that the discussion was solely for the purposes of clarification for the Complaint Committee and so she did not expect there to be a posting for the general public. However, the regulations and statutes concerning practicing with an expired license are on the Board's website.

5. Sheila York informed the Board that the draft policy language regarding the use of the title Engineer is not yet ready for review but the item should remain on the agenda.

She further stated that the Board could discuss the topic further to assist her in drafting the policy.

Paul Tyrell reminded the Board that the public has asked for clarification regarding this topic so discussion toward a resolution would be prudent. He then opened it up to the public in attendance to provide comment if they so choose.

Ken Anderson indicated that company websites often list employees who are not licensed, as engineers.

Abbie Goodman stated that the prevalent use of project engineer as a title is the driving force behind the request for clarification on this topic.

Paul Tyrell stated that while it might be obvious to Board members what internal industry terminology such as project engineer actually means, it clearly is not obvious to the general public.

Maurice Pilette stated that the industry is a major violator in terms of use of misleading titles but pointed out that it is difficult to enforce the current statutory and regulatory language.

Paul Tyrell proposed a scenario where a complaint was received against a project engineer who was not a licensed engineer, how would the Complaint Committee handle such a matter.

Dennis Drumm responded that while he could not speak definitively as to how any specific case would be handled, in some cases an advisory letter has been sent to the individual or company regarding the use of the title engineer.

Paul Tsang stated that due to the pervasive use within the industry of such titles, it would be difficult to enforce.

Maurice Pilette stated that the industrial exemption to licensure is a contributing factor.

Sheila York stated that any revision to the regulatory language would have to be consistent with the Board's statutory authority.

Ken Anderson asked the Board if it would be possible to re-issue a letter outlining what terminology is allowed under the current statute and regulations.

Sheila York stated that she could work on a draft letter for Board review and discussion.

6. Clinton Dick informed the Board there were no discussion items for the Executive Director's Report on the agenda, but advised the Board that at 10am, there would be a meeting with Supervisor and Licensee to discuss the termination of probation in Docket No. EN-15-001, Licensee No. 49029.
7. Clinton Dick provided the Board with a copy of an email from Michael Hammer, dated January 11, 2018, regarding "Sealing plans with compile property lines."

Sheila York stated that she could search through the Board's records for the old policies that were referenced in the email.

Clinton Dick stated that the Board could refer Mr. Hammer back to the pertinent section(s) of the regulations and recommend that he speak with his legal counsel.

Paul Tyrell recommend that a thank you letter be sent to Mr. Hammer with the above suggestions.

8. At 10AM, Clinton Dick welcomed Elaine Huang and Eric Adams to discuss the termination of probation in Docket No. EN-15-001, Licensee No. 49029.

Paul Tyrell invited both Ms. Huang and Mr. Adams to summarize their report to the Board.

Mr. Adams provided the Board with a brief synopsis of his oversight of Ms. Huang during her probationary period and noted several instances where he made recommendations on how she could improve her process.

Paul Tyrell asked Ms. Huang how many sites she personally visits. She indicated that she performs all commercial site visits with a partner and will conduct residential visits if a specific city or town requires such. He further asked Ms. Huang if she could speak about the original complaint. Ms. Huang summarized the original complaint for the Board.

Ron Willey motioned, seconded by Peter Hale, to terminate probation in Docket No. EN-15-001, Licensee No. 49029. Motion passed with a vote of 9-0.

9. At 10:15 AM Dennis Drumm motioned, seconded by Peter Hale to suspend the open session and enter into Closed Quasi-Judicial Session pursuant to G.L. c. 30A, §18 to discuss the tentative Decision and Order in EN-16-015.

10. Open session resumed at 10:45 AM.

11. At 11:05 AM Dennis Drumm motioned, seconded by Peter Hale to suspend the open session and enter into Closed Investigative Session under M.G.L. c. 112 §65C to discuss settlement terms in 2015-001471-IT-ENF. Motion was unanimous. Maurice Pilette recused himself from the discussion.

12. Report of actions taken during closed investigate conference:

- 2015-001471-IT-ENF: Discussed settlement offer with Prosecuting Counsel

13. Open session resumed at 11:20 AM.

14. At 11:30 AM the Chair noted that there were no further topics for the public Board meeting. Peter Hale motioned to adjourn. Dennis Drumm seconded. Motion passed.

Respectfully submitted by,



Eric Funk  
Board of Registration of Professional Enqin...

Documents used at the public meeting:

- December 21, 2017 Public Session (draft)
- Continuing Professional Competency regulations (draft 11/6/17)
- Email from Michael Hammer, dated January 11, 2018, to the Board regarding "Sealing plans with compile property lines."