



CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

Commonwealth of Massachusetts
Division of Professional Licensure
Board of Registration of Professional Engineers
and Land Surveyors

1000 Washington Street • Boston • Massachusetts • 02118

JOHN C. CHAPMAN
UNDERSECRETARY OF
CONSUMER AFFAIRS AND
BUSINESS REGULATION

CHARLES BORSTEL
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Minutes of the January 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
Daniel Caron, PE
Erin Joyce, PE
Joyce Hastings, PLS
Ronald Willey, PE, Vice Chairman
Azu Etoniru, PE, PLS
Maurice Pilette, PE
Joanne Linowes, Public Member (via telephone)
Paul Tsang, PE

Board Members Absent

Dennis Drumm, PLS

Members of the Public Present

Abbie Goodman, TECET

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 9:10AM and notified attendees of the evacuation procedures. Chairman Tyrell announced that Board member Joanne Linowes was participating in today's meeting via telephone and confirmed that she could be heard by all attendees, including any members of the public present. In addition, because a member is participating remotely, all votes in public session would be by roll call vote.
2. The Board reviewed the minutes of the December 20, 2018 Open Meeting. Ron Willey moved, seconded by Azu Etoniru, to accept the meeting minutes with minor edits to number 9 on page 3 and number 18 on page 5. Motion passed with a roll call vote of 9-0. Members in favor: Paul Tyrell, Dan Caron, Ronald Willey, Paul Tsang, Maurice Pilette, Erin Joyce, Joyce Hastings, Azu Etoniru, and Joanne Linowes. Members opposed: None.
3. Sheila York discussed with the Board a recent decision of the federal district court in Oregon, Mats Jarlstrom v. Oregon State Board of Examiners for Engineering and Land Surveying, U.S. Dist. Ct. Oregon, Case No. 3:17-cv-

00652-SB, issued December 28, 2018, in which the plaintiff alleges a violation of the First Amendment. Sheila York provided a brief synopsis of the court decision and responded to Board member questions.

4. Paul Tyrell reminded the Board that the next meeting is scheduled for February 28, 2019.

Paul Tyrell also reminded the Board that engineer and surveyor interviews would be held on February 5, 2019. He further stated that due to a scheduling conflict, he would not be able to attend and requested volunteers. Joyce Hastings, Erin Joyce, Azu Etoniru and Dan Caron indicated that they would be available to attend.

5. Sheila York distributed to Board members proposed revisions to the Policy on Applicants with Criminal History. She explained that these revisions were being proposed pursuant to Chapter 69 of the Acts of 2018 (An Act Relative to Criminal Justice Reform), which requires licensing boards to provide further guidance regarding convictions that may disqualify an applicant from licensure.

As background, Sheila York explained that since 2007 the Board has had a written Criminal Offender Record Information (CORI) policy for all applicants. This policy was updated in 2009 to address applicants with 30+ day incarcerations on their record.

Sheila York read the updated language to the Board for their consideration and discussion.

Azu Etoniru mentioned that offenses that occurred prior to age 18 would not be reflected on the CORI.

Maurice Pilette asked about a 10 year cutoff stipulation.

Paul Tyrell stated that singular offenses of specific nature may not result in Board review, but multiple offenses/convictions, especially in a minimal time period, would trigger such a review by the Board.

Maurice Pilette requested that the matter be held over until the next Board meeting.

Sheila York stated that she would email the Board members copies of the proposed revisions for the meeting on February 28, 2019.

6. Sheila York updated the Board on the Legislative amendments to Utilities exemption in licensing law, G.L. c: 112, § 81R (1).

Sheila York stated that on December 31, 2018, the Massachusetts State Senate passed An Act ensuring the safety and soundness of the commonwealth's natural gas infrastructure, previously passed by the House, and Governor Baker signed it into law as Chapter 339 of the Acts of 2018.

Sheila York stated that the Department of Public Utilities (DPU) will promulgate new regulations and has reached out to the Board for input.

Sheila York stated that she, along with DPL's General Counsel Kevin Scanlon and the Board's Executive Director Clinton Dick met with DPU staff to discuss the matter of direct charge and supervision as well as other topics related to potential new regulations.

Clinton Dick stated that the DPU has requested feedback on a number of topics such as the willingness of P.E.s to perform such work.

Paul Tyrell stated that P.E.s are qualified to perform the work but a job may require multiple engineers and, therefore, the concern is that no one person would be able to stamp such work as the responsible charge engineer as no one person holds all of multiple licenses a job may require. This may also include architects.

Sheila York stated that another concern is that employees who have been performing engineering work under the exemption may now be prohibited from doing so as they may not meet the Board's requirements for licensure.

Maurice Pilette stated that this could cause issues at the local level as local inspectors may not be aware of or understand the licensure requirements under this new law, which will require outreach from all parties to help educate them.

Paul Tyrell asked if the DPU plans to hold a forum for all stake holders in this matter.

Abbie Goodman stated that at this time no such forum is planned but the DPU intends to meet individually with all stake holders.

Ron Willey asked if the information gathered at these meeting would be shared. He further stated that Management of Change should be of great importance as these discussions move forward in order to ensure that safety, health and environmental risks are considered before the regulations are promulgated.

Maurice Pilette stated that it is one thing to have a licensed PE stamp a set of plans/drawings but another to have an entire system checked before it is activated.

Paul Tsang agreed with Maurice Pilette and stated that there are any number of unforeseen conditions/issues that may arise during the construction phase of a project.

Abbie Goodman discussed potential issues that she expects may arise as DPU prepares to implement the legislative changes.

Sheila York stated that this topic will be an ongoing one for future meetings.

7. Sheila York stated that there is no update at this time on the policy language for Use of the Title Engineer.

Sheila York stated that she has been working on other legal projects for this Board, but that she will provide an update on the Title Policy at a future meeting.

8. Clinton Dick stated that the Board received a Self-Report of discipline from Licensee #48629-C. The Licensee was disciplined by the FL Board for violations of the Continuing Education (CE) requirements. 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.

9. Clinton Dick informed the Board that the monitoring report for Docket No. 2016-000599-IT-ENF was received.
10. Clinton Dick advised the members that the nomination and election of Board Chair, Vice Chair, and Secretary are to be considered.

Azu Etoniru motioned to keep the current leadership of Chairman Paul Tyrell, Vice Chair Ron Willey, and himself as Secretary. Motion was seconded by Joyce Hastings. Motion passed with a roll call vote of 9-0. Members in favor: Paul Tyrell, Dan Caron, Ronald Willey, Paul Tsang, Maurice Pilette, Erin Joyce, Joyce Hastings, Azu Etoniru, and Joanne Linowes. Members opposed: None.

11. At 10:36AM, the Board voted to enter into Closed Investigative Session under M.G.L. c. 112 §65C. Motion passed with a roll call vote of 9-0. Members in favor: Paul Tyrell, Dan Caron, Ronald Willey, Paul Tsang, Maurice Pilette, Erin Joyce, Joyce Hastings, Azu Etoniru, and Joanne Linowes. Members opposed: None.

Report of actions taken during closed investigate conference:

- 2017-001175-IT-ENF: Guidance on settlement terms provided to Prosecuting Counsel

12. Open session resumed at 10:58AM.
13. Clinton Dick provided the Board with a copy of an email from Howard Gerber, dated January 9, 2019, regarding electronic stamping and sealing of drawings.

Paul Tyrell raised the distinction between digital signatures and electronic signatures.

Dan Caron provided the Board with an explanation between digital and electronic stamping of a document. Board members discussed 250 CMR 5.03(11) which requires that a digital Signature be invalidated "if any part of the document is changed."

Mr. Caron noted that based on the information provided to the Board, it appears that Mr. Gerber is following 250 CMR 5.03(11) as required. Other

board members agreed and asked Sheila York to provide this response to Mr. Gerber.

14. Clinton Dick provided the Board with a copy of an email from Sylvia Talbot, dated January 6, 2019, regarding the need to have four years of supervised work experience before applying. Ron Wiley recused himself from further discussion. The Board discussed that it is possible for an applicant to have been engaged in lawful practice of engineering while working under a statutory exemption.

The Board indicated that a review of the entire application would be required but her experience may qualify as lawful if it fits within the Manufacturing Exemption in G.L. c. 112, s. 81R(g). The applicant should be referred to the applicable regulations: 250 CMR 3.05(8).

15. Clinton Dick provided the Board with a copy of an email from Zachary Rohlfs, PE dated December 14, 2018, requesting that the Board add a "Plumbing" option under the Mechanical PE exam.

Dan Caron stated that Mr. Rohlfs is requesting that the Board support a petition to NCEES to add a Plumbing option within the Mechanical PE exam. He further stated that a specific number of states are required on such a petition for NCEES to take it under consideration.

Dan Caron recused himself from further discussion as Mr. Rohlfs is a colleague at his company.

Ron Willey informed the Board that currently there are three variations of the NCEES Mechanical exam: HVAC and Refrigeration; Machine Design and Materials; and Thermal and Fluid Systems. The Board discussed the knowledge areas tested in the Thermal and Fluid Systems variation of the exam and their relation to plumbing engineering.

Paul Tyrell stated that the broad knowledge required for the mechanical exam may be the reason individuals are petitioning to add a fourth variation to the exam for plumbing.

Maurice Pilette and Paul Tsang stated that the MA Plumbing Code and Plumbing Board requirements would also have to be taken into consideration on such a request as both play a role in the practice of engineering.

Azu Etoniru stated that a specific examination variation in plumbing would be too narrow a scope to obtain a PE license.

Azu Etoniru motioned to decline the request to join the petition to NCEES to request adding a Plumbing variation within the Mechanical PE exam. Motion was seconded by Joyce Hastings. Motion passed with a roll call vote of 7-1-1. Members in favor: Paul Tyrell, Ronald Willey, Paul Tsang, Maurice Pilette, Erin Joyce, Joyce Hastings, and Azu Etoniru. Members opposed: Joanne Linowes. Members abstaining from the vote: Dan Caron.

16. Clinton Dick provided the Board with a copy of an email from Matthew Gamache, dated December 13, 2018, requesting the Board to recognize civil/environmental

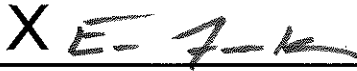
engineering master's degrees from colleges and universities that offer ABET accredited civil/environmental engineering bachelor's degrees as equivalent to ABET accredited civil/environmental engineering bachelor's degrees.

Ron Willey stated that master's programs can be tailored to touch on the fundamentals; however, design is not always included as it would be in a bachelor's program.

Paul Tyrell stated that not only has there been a long standing regulation addressing this, but there is already a path to licensure for such candidates under classification c, which requires 8 years of work experience under the direct supervision of a licensed PE.

17. At 12:10 PM the Chair noted that there were no further topics for the public Board meeting. Azu Etoniru motioned to adjourn. Ron Willey seconded. Motion passed unanimously.

Respectfully submitted by,



Eric Funk
Board of Registration of Professional Enqin...

Documents used at the public meeting

- Agenda for the January 24, 2019 Meeting
- Draft Minutes of the December 20, 2018 Meeting
- Copy of Mats Jarlstrom v. Oregon State Board of Examiners for Engineering and Land Surveying, Case No. 3:17-cv-00652-SB, issued December 28, 2018
- Email from email from Howard Gerber, dated January 9, 2019, regarding electronic stamping and sealing of drawings
- Email from Sylvia Talbot, dated January 6, 2019, regarding the need to have four years of supervised work experience before applying.
- Email from Zachary Rolhfs, dated December 14, 2018, requesting the Board to add a "Plumbing" option under the Mechanical PE.
- Email from Matthew Gamache, dated December 13, 2018, requesting the Board to recognize civil/environmental engineering master's degrees from colleges and universities that offer ABET accredited civil/environmental engineering bachelor's degrees as equivalent to ABET accredited civil/environmental engineering bachelor's degrees.