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Division of Professional Licensure
Board of Registration of Professional Engineers
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REGULATION

DIANE SYMONDS
COMMISSIONER, DIVISION OF
PROFESSIONAL LICENSURE

Minutes of the March 28, 2019 Open Meeting

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

Board Members Present

Dennis Drumm, PLS
Ronald Willey, PE, Vice Chairman
Daniel Caron, PE
Erin Joyce, PE
Joyce Hastings, PLS
Azu Etoniru, PE, PLS
Maurice Pilette, PE
Paul Tsang, PE
Joanne Linowes, Public Member

Board Members Absent

Paul Tyrell, PE, PLS, Chairman

Members of the Public Present

Abbie Goodman, TECET
Kenneth Anderson, TECET

Division Staff Members Present at Various Times during the Meeting:

Sheila York, Board Counsel
Clinton Dick, Executive Director
Eric Funk, Board Administrator
Betty Akoh, Legal Intern

1. Vice Chairman Ronald Willey opened the meeting at 9:15AM and notified attendees of the evacuation procedures.
2. The Board reviewed the minutes of the February 28, 2019 Open Meeting. Azu Etoniru moved, seconded by Joanne Linowes, to accept the meeting minutes with minor edit on page 4. Motion passed with a roll call vote of 7-0-1. Members in favor: Dan Caron, Ronald Willey, Maurice Pilette, Erin Joyce, Joyce Hastings, Paul Tsang and Azu Etoniru. Members opposed: None. Members abstaining from the vote: Dennis Drumm.
3. Sheila York provided the Board with a copy of the Massachusetts Department of Public Utilities' inquiry into the use of professional engineers by natural gas companies as required by G.L. c. 164 § 148.

Sheila York provided the Board with a quick synopsis of the request and indicated that comments are due to be submitted by 5:00PM on Thursday, April 18, 2019.

Vice Chairman Ronald Willey recommended that a subcommittee be formed to provide comments and that subcommittee should meet within the next two weeks.



Paul Tyrell, Paul Tsang and Erin Joyce all volunteered to participate.

Sheila York informed the Board that should any other members wish to provide comments, please do so by sending them directly to her attention.

Sheila York further stated that comments would be submitted on behalf of the Board and would not be voted on prior to submission.

4. Vice Chairman Ronald Willey informed the Board that the next meeting is scheduled to take place on April 25, 2019.
5. Sheila York stated that there is no update at this time on the policy language for Use of the Title Engineer.

Sheila York distributed a copy of draft response language to correspondence from Mr. Morse and Mr. Levesque which was discussed at the February 28, 2019. The draft language was presented in the form of a new FAQ regarding site plans/property line determination for the Board's website.

Azu Etoniru commented that many civil engineering degree curriculums no longer include land surveying courses and as a result, determining whether or not certain land surveying work is "incidental to" the engineering work to be performed has become more difficult.

Erin Joyce stated that regardless of a licensee's engineering degree, it would be presumptuous to believe that anyone other than a licensed land surveyor could or should be making the determination of what is or is not considered land surveying work.

Dennis Drumm commented that any time a boundary line is involved, a licensed land surveyor should be hired for the project.

Azu Etoniru agreed with Dennis Drumm and added that if an interpretation of a plan is involved, a licensed land surveyor should be the one making that interpretation.

Erin Joyce stated that in the circumstance where a document that is obtained from the Registry of Deeds and not directly from the licensed land surveyor who created the document, that document should not be used or cited to as it is not an official document.

Joanne Linowes stated that it is quite difficult for a property owner to know what is or is not allowable.

Azu Etoniru stated that the objective should not just be to protect the licensed engineer or land surveyor, rather it should be to protect the health, safety and welfare of all involved. Our regulations leave the judgement/determination to the licensee as to what is considered "incidental to" so any avenue to provide clarification or guidance would be beneficial.

Vice Chairman Ronald Willey invited Kenneth Anderson to comment on the topic.

Kenneth Anderson informed the Board of a case that involved a two (2) unit condo building project. He stated that a P.E. was hired by the property owner to build the condo building on his property however, it turns out that the property was actually not owned by him and the building was built on land owned by the adjacent lot owner.

Erin Joyce stated that if a well-documented chain of ownership cannot be established, the authenticity of the documentation should be in question.

Joyce Hastings concurred that any time boundary lines are used/referenced, that work should be performed by a licensed land surveyor.

Vice Chairman Ronald Willey stated that the response to the question "Can a Professional Engineer (PE) develop and certify a site plan which references a property line determination that was previously completed by a Professional Land Surveyor (PLS) and filed at the Registry of Deeds" should be no, unless that plan has been verified by a licensed PLS or the PLS that originally produced the plan.

Sheila York stated that in addition to that language, it should be noted that a case by case analysis should be conducted as some exemptions may exist.

Sheila York that she would re-draft to amend the language and provide the revised draft to the Board for review at the next meeting.

6. Clinton Dick stated that the Board received a Self-Report of discipline from Licensee #54249-C. The Licensee was disciplined by the Boards of five states (FL, NC, IL, KY, and VA) for a range of issues that resulted in suspension, reprimand and fines. 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 #51707-E. The Licensee was disciplined by the FL Board for a continuing education (CE) violation. 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 #52316-ST. The Licensee was disciplined by the TX Board for filing inaccurate plans. Licensee was fined and placed on probation until November 2019. Licensee was subsequently disciplined by the MN Board for failing to report the TX action. 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.

7. Vice Chairman Ronald Willey asked if there were any topics for discussion that were not presented on the agenda.

Abbie Goodman stated that she had reached out to a number of potential committee participants regarding the proposed update to "Professional Practice, A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts", dated 1997 and prepared by The Joint Committee for Architects, Engineers, and Land Surveyors on Professional Practice.

Clinton Dick stated that AR Board Chairman John Pisa and Pip Lewis had agreed to participate on the committee.

8. At 10:08AM, 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: Dennis

Drumm, 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:

- 2018-001340-IT-ENF: Dismiss
- 2018-000489-IT-ENF: Refer to the Office of Prosecutions
- 2018-000267-IT-ENF: Dismiss

9. At 10:15AM the Vice Chairman noted that there were no further topics for the public Board meeting. Azu Etoniru motioned to adjourn. Joyce Hastings seconded. Motion passed unanimously.

Respectfully submitted by,



Eric Funk
Board of Registration of Professional Engin...

Documents used at the public meeting

- Agenda for March 28, 2019 Meeting
- Draft Minutes of February 28, 2019 Open Meeting
- Massachusetts Department of Public Utilities' inquiry into the use of professional engineers by natural gas companies as required by G.L. c. 164 § 148
- Email from Joseph Levesque, dated January 29, 2019, regarding engineering/surveying endorsements.
- Email from Eric J. Morse, dated January 30, 2019, asking the Board to provide clarification on limitations of the civil engineer's signing authority in regards to performing and certifying land surveying "incidental" to a civil design.