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Division of Occupational Licensure

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REGULATION

LAYLA R. D'EMILIA
COMMISSIONER, DIVISION OF
OCCUPATIONAL LICENSURE

Minutes of the January 26, 2023 Open Meeting

Meeting was held remotely by video conference and telephone pursuant to Chapter 22 of the Acts of 2022: *An Act Making Appropriations for the Fiscal Year 2022 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects*, signed into law on February 12, 2022 and amended July 16, 2022.

The following attendance was recorded:

Board Members Present

Paul Tyrell, PE, PLS, Chairman
Ronald Willey, PE, Vice Chairman
Shannon Slaughter, Public Member
Joyce Hastings, PLS
Daniel Caron, PE
Erin Joyce, PE
Paul Tsang, PE
Azu Etoniru, PE, PLS
Kenneth Anderson, PLS
Maurice Pilette, PE

Board Members Absent

Members of the Public Present

Abbie Goodman, TECET
Samira Ayati, PE License Applicant
Patrick Doyle, PE License Applicant
Gianna Gioioso, PE License Applicant
Raymond Page, PLS License Applicant

Division Staff Members Present
at Various Times during the Meeting:

Kathleen McNally, Executive Director
of Various Boards
Colleen Maloney, Associate Deputy
Commissioner of Policy and Boards
Jenna Hentoff, Board Counsel
Seth Henderson, Prosecuting Counsel
Eric Funk, Board Administrator

1. At 9:05AM, Kenneth Anderson motioned, seconded by Azu Etoniru, to open the meeting. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.



2. Chairman Paul Tyrell cautioned the Board about winter weather safety on the roads. He stated that safe driving in New England means thoroughly scraping all vehicle windows, clearing your vehicle of snow, watching for black ice, etc.
3. Chairman Paul Tyrell acknowledged newly appointed Executive Director Kathleen McNally and welcomed her to the Board.
4. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on February 23, 2023. Due to conflicts with staff schedules, the Board decided to reschedule the February 23, 2023 meeting to February 16, 2023. The Board also ratified the remaining meeting dates for 2023 which will be posted to the Board's website.

Board Counsel Jenna Hentoff advised the Board that beginning on February 1, 2023, the public session of all Board meetings will be recorded and the recordings will be subject to the public records law.

Associate Deputy Commissioner Colleen Maloney further added that the process for how recordings will be made available in connection with a public records request has not yet been finalized and further information will be provided as soon as it is available.

5. Board Counsel Jenna Hentoff also advised the Board that provisions of the July 16, 2022 Act Relative to Extending Certain State of Emergency Accommodations which extended the expiration of provisions related to the open meeting law to March 31, 2023 are set to expire, including the ability to hold remote meetings. She further stated that the provision for remote meetings has not yet been extended beyond March 31, 2023. In the event that it does not get extended, the April 20, 2023 meeting could potentially be held in-person at the DOL offices.
6. Chairman Paul Tyrell announced that Maurice Pilette's tenure on the Board is set to expire on January 31, 2023, and he would not be seeking reappointment.

Chairman Paul Tyrell informed the Board that Maurice was appointed on September 22, 2005, making him one of the longest tenured members. He stated that besides being a valuable resource for the Board for so many years and for his own education and growth as a member, Maurice is a friend and will be greatly missed.

7. Board Counsel Jenna Hentoff advised the members that the nomination and election of Board Chair, Vice Chair, and Secretary are to be considered.

Kenneth Anderson motioned to keep the current leadership of Chairman Paul Tyrell, Vice Chair Ron Willey, and Azu Etoniru as Secretary. Motion was seconded by Dan Caron. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

8. The Board reviewed the minutes of the November 17, 2022 Open Meeting. Azu Etoniru moved, seconded by Kenneth Anderson, to accept the meeting minutes with edits to #8, line 4, removing "the" after "fully," and amending #15, line 7 removing "to" after "brought." Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.
9. Board Counsel Jenna Hentoff briefed the Board regarding a request from NCEES to provide responses to a survey for the Inter-organizational Council on Regulation (ICOR) pertaining to incidental practice.

Board Counsel Jenna Hentoff went through all sixteen (16) questions with the Board providing guidance on how best to answer each question. It was determined that the responses would be compiled and provided to Chairman Paul Tyrell, Dan Caron, and Azu Etoniru for final review and comment prior to completion of the ICOR survey.

10. Board Counsel Jenna Hentoff notified the Board that the recently updated advisory to clarify tasks that may be performed by Professional Land Surveyors (“PLS”) and Professional Engineers qualified in the Branch of civil engineering (“PE (Civil)”) in the Commonwealth of Massachusetts has now been posted to the Board’s website.
11. Board Counsel Jenna Hentoff informed the Board that there was no new update pertaining to the draft language for Continuing Professional Competency (CPC) regulations. She stated that the next step in the process would be for it to pass to Administration and Finance for review.
12. Board Counsel Jenna Hentoff advised the Board that the latest redlined version of “Professional Practice: A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts” (“Guide”) had been updated to include the requested language updates in Question #10 pertaining to 250 CMR 5.05 and the licensing of business entities, as well as the addition of the recently updated advisory task list, which was added under Question #11.

The Board requested that the most recent version be provided to the Architect (AR) Board for final review and comment as soon as possible.

13. Board Counsel Jenna Hentoff informed the Board that there were no further legal topics for discussion.
14. Eric Funk informed the Board that after review of the NCEES Enforcement Exchange, there were no complaints opened against licensees for failure to notify the Board of discipline in another jurisdiction within the thirty (30) day window to report such discipline as outlined in the regulations.
15. Eric Funk stated that the Board received a Self-Report of discipline from Licensee #53041-ST. The Licensee was issued a letter of admonition by the CO Board for disciplinary action taken against his license by the NC Board, which included a letter of reprimand and \$3,000 civil penalty for assisting another to evade or attempt to evade the provisions of G. S. 89C; affixing his seal to work not done under direct supervisory control or responsible charge; producing a substandard report; and failing to properly sign document by using facsimile signature.

Dan Caron moved, seconded by Kenneth Anderson, to take no further action. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

16. Eric Funk stated that the Board received a Self-Report of discipline from Licensee #49232-C. The Licensee notified the Board that his firm was disciplined by the LA Board for offering engineering services with an expired firm license and as the engineer in responsible charge, the licensee was also disciplined by the LA Board. The firm was ordered to pay a fine of \$1,500; pay administrative costs of \$342.46; pay past unpaid renewal costs of \$120; agreed that each of its supervising professionals will successfully complete the Board's online Louisiana Laws and Rules Quiz; agreed that each of its supervising professionals will successfully complete the Board's online Louisiana Professionalism and Ethics Quiz; acknowledged the immediate suspension of its Louisiana professional engineering firm license if it fails to comply with any portion of this Consent Order, with said suspension continuing until it so complies; and agreed to the publication of the Consent Order on the Board's website

and a summary of this matter in the Board's official journal, the Louisiana Engineer and Surveyor Journal, and the reporting of this matter to the National Council of Examiners for Engineering and Surveying (NCEES), identifying the firm by name.

The Licensee was ordered to pay a fine of \$500; pay administrative costs of \$342.46; pay past unpaid renewal costs of \$120; agreed that each of its supervising professionals will successfully complete the Board's online Louisiana Laws and Rules Quiz; agreed to successfully complete the Board's online Louisiana Professionalism and Ethics Quiz; acknowledged the immediate suspension of its Louisiana professional engineering firm license if he fails to comply with any portion of this Consent Order, with said suspension continuing until he so complies; and agreed to the publication of the Consent Order on the Board's website and a summary of this matter in the Board's official journal, the Louisiana Engineer and Surveyor Journal, and the reporting of this matter to the National Council of Examiners for Engineering and Surveying (NCEES), identifying Respondent by name.

Dan Caron moved, seconded by Kenneth Anderson, to take no further action. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

17. Eric Funk stated that the Board received a Self-Report of discipline from Licensee #56982-C; however, the Licensee had not yet provided a fully executed copy of the settlement agreement from the MO Board. The matter was tabled until the fully executed settlement agreement has been received.
18. Eric Funk stated that the Board received a Self-Report of discipline from Browder+ LeGuizamon and Associates, Inc. The firm was disciplined by the OH Board for operating in the state of Ohio with a lapsed certificate of authorization for which it was ordered to pay a fine of \$500 and issued a letter of reprimand.

Dan Caron moved, seconded by Kenneth Anderson, to take no further action. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

19. Chairman Paul Tyrell logged out of the meeting briefly at 10:20 AM. Vice Chair Ronald Willey took over Chair duties.
20. Eric Funk stated that the Board received a Self-Report of discipline from WSP USA Inc. WSP was disciplined by the OH Board in 2018 for failing to renew its professional engineering COA with the OH Board prior to its expiration. Because the firm had been late in renewing the COA in the past, the OH Board and WSP entered into a settlement agreement, which included a \$1,500 fine and public reprimand. WSP paid the fine and the COA was reissued.

In 2019, the professional engineering license renewal application of WSP USA Inc. was submitted to the SC Board and inadvertently failed to disclose the disciplinary action taken against the firm in Ohio. In response, the SC Board and WSP entered into a consent agreement, which included a \$500 fine and public reprimand against WSP. WSP paid the fine and the COA was reissued.

In 2021, the professional engineering and geology license renewal applications of WSP USA Inc. were submitted to the KY Board, and inadvertently each license was renewed with a deceased person and an old company address. In response, the KY Board and WSP entered into a consent agreement which included a \$2,000 fine and public reprimand against WSP.

In March 2022, a professional engineering registration submitted by WSP USA Inc. to the VA Board disclosed the disciplinary actions taken by the equivalent boards in Ohio, Kentucky, and

South Carolina. The VA Board issued to WSP an Agreement for Registration, placing the firm in a one-year probationary period. The agreement did not result in a monetary penalty and WSP's COA was reissued.

Dan Caron moved, seconded by Kenneth Anderson, to take no further action. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Dan Caron, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

21. Joyce Hastings provided the Board with the Jurisprudence Exam Education Subcommittee report on the October 2022 exam results. This was the fourth administration of the exam since the reduction in the number of exam questions from 50 to 40. The subcommittee's recommendation was to set the pass rate at 70%.

There were seven (9) exam takers. Five (5) of the nine (9) exam takers were Massachusetts residents. Three (3) of the nine (9) exam takers were first time takers of the exam. Of the nine (9) exam takers, three (3) achieved a passing score of at least 70%.

Kenneth Anderson motioned to accept the recommendation of the subcommittee, seconded by Shannon Slaughter. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Dan Caron, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

22. Eric Funk updated the Board on the proposed attendees for 2023 NCEES Zone Interim Meeting to be held in Houston, TX on April 27-29, 2023. He asked that anyone interested in attending to notify him so that proper authorizations are secured.
23. Vice Chair Ronald Willey welcomed applicant #1025400, Samira Ayati, to the meeting to discuss her application for approval in PE Civil by Comity. Ms. Ayati introduced herself and provided a brief summary of her background.

Erin Joyce provided a summary of the Board's review of Ms. Ayati's application along with an overview of the MA regulatory requirements for licensure, especially pertaining to Construction Engineering and Construction Phase Services experience.

Azu Etoniru explained to Ms. Ayati that the Board is looking for examples of her engineering experience where she demonstrated engineering judgement and decision making. He noted that much of Construction Engineering and Construction Phase Services work is not pure design engineering, which is what the Board would like to see samples of. He further stated that the Board's regulations require that an applicant have a well-rounded engineering background which would require her to provide samples of her engineering design work outside of construction engineering.

Chairman Paul Tyrell explained that based on what he had reviewed, Ms. Ayati would need to provide at least 3-years of engineering design experience work to meet the regulatory requirements.

Dan Caron advised Ms. Ayati that the 3-years of experience does not need to be consecutive, nor do the samples of her work need to be stamped by a licensed P.E. The samples just need to be clearly annotated to show what engineering design work she performed.

Ms. Ayati thanked the Board for the guidance and indicated that she would work on compiling the requested documentation for the Board.

24. Chairman Paul Tyrell returned to the meeting at 10:48AM during the discussion with applicant Samira Ayati.

25. Eric Funk advised the Board that the case tracking spreadsheet continues to undergo updating with the hope that a current version would be available for either the February 16th or March 23rd meeting.
26. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Azu Etoniru moved, seconded by Ronald Willey, to accept the report and ratify the application approvals. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.
27. Board Counsel Jenna Hentoff provided the Board with a brief overview of applicant #1025081, who indicated that they had signed a consent agreement with the PA Board, effective 3/10/16, for practicing with an expired license. The applicant agreed to pay a \$1,500 civil penalty and \$527.18 in costs. He was also publicly reprimanded.

Ronald Willey moved, seconded by Azu Etoniru to take no further action against the applicant and allow his application to move forward in the licensure process. Motion passed with a vote of 9-0-1. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Shannon Slaughter, Kenneth Anderson, Ronald Willey, and Maurice Pilette. Members opposed: None. Members abstaining: Paul Tsang

28. Dan Caron shared the sad news that Arjun Rao, one of the “Founding Fathers” of BR+A, passed away peacefully on January 18, 2023. Dan informed the Board that Mr. Rao was a former Board member and Dan’s predecessor on the Board, who pushed hard for the Board to adopt the comity licensure application process which is now a requirement. He also requested that former DOL staff who knew Mr. Rao be informed of his passing.
29. Board Counsel Jenna Hentoff notified the Board that an email was received under 48 hours prior to the meeting that required Board consideration. The email, from Jason Gamble, NCEES Chief Officer of Examinations, dated January 24, 2023, was in regard to a PAKS survey related to the Public Land Survey System (PLSS). NCEES is exploring the addition of 2 new modules may be adding to the PS exam – the Core + Boundary module and the PLSS module. The survey consisted of 2 questions, “select your member board from the dropdown menu”, and “is your Board likely to require the PLSS Module for licensure in your state?” Since MA is one of the Colonial States (original 13 colonies of the U.S.), it continues to use the metes and bounds system. Therefore, the Board’s response to survey question 2 was determined to be “no.”
30. Chairman Paul Tyrell opened the meeting to public comment and recognized Raymond Page, current applicant for licensure as a Land Surveyor. Mr. Page introduced himself and stated that he attended the meeting to get a better understanding of what the Board handles each month and he was hoping to find out more information about the PLS oral exam/interview process and when he may be scheduled for his oral exam/interview.

Eric Funk thanked Mr. Page for attending the meeting and provided a detailed overview of the oral exam/interview process and assured Mr. Page that the Board would be holding the oral exam/interviews just as soon as scheduling could be finalized.

Mr. Page thanked the Board for their time.

31. At 10:59AM, Shannon Slaughter logged off the meeting as she had a prior commitment to attend to.

At 11:00AM, Kenneth Anderson moved, seconded by Azu Etoniru, to end the Open Session of the meeting and enter Closed Executive Session pursuant to G.L. c. 30A, §21(a) (1) to discuss the character, rather than competency, of an applicant. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Dan Caron, Paul Tyrell, Joyce

Hastings, Azu Etoniru, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None. The Chair stated that he expected to be in Executive Session for approximately thirty (30) minutes.

At 11:40AM Kenneth Anderson moved, seconded by Azu Etoniru to end the Closed Executive Session and enter Closed Quasi-Judicial Session pursuant to G.L. c. 30A, §18. Motion passed with a vote of 9-0. Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

Report of actions taken in quasi-judicial session:

- 2021-000550-IT-ENF: Board voted to issue Final Decision and Order

At 11:52AM, Dan Caron moved, seconded by Azu Etoniru, to end the Closed Quasi-Judicial Session of the meeting and enter Closed Investigative Session pursuant to G.L. c. 112, § 65C. Motion passed with a vote of 9-0. Erin Joyce, Dan Caron, Paul Tyrell, Joyce Hastings, Azu Etoniru, Kenneth Anderson, Paul Tsang, Ronald Willey, and Maurice Pilette. Members opposed: None.

Vice Chair Ronald Willey had a prior commitment and logged out of the meeting at 11:52AM.

Report of actions taken during closed investigate conference:

- 2021-000319-IT-ENF: Provided guidance to Prosecutor

Respectfully submitted by,

Eric Funk
Board Administrator

Documents used at the public meeting:

- Agenda for January 26, 2023 Meeting
- Draft Minutes of November 17, 2022 Open Meeting
- ICOR Survey questions
- Draft “Professional Practice: A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts”
- Application documents for applicant #1025400
- Self-reports of discipline documents