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OCCUPATIONAL LICENSURE

Minutes of the November 16, 2023 Open Meeting

Meeting was held remotely by video conference and telephone pursuant to Chapter 2 of the Acts of 2023: *An Act Making Appropriations for the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects*, signed into law on March 29, 2023.

The following attendance was recorded:

Board Members Present Remotely

Paul Tyrell, PE, PLS, Chairman
Ronald Willey, PE, Vice Chairman
Azu Etoniru, PE, PLS
Daniel Caron, PE
Kenneth Anderson, PLS
Nancy Gould, PE
Paul Tsang, PE

Board Members Absent

Erin Joyce, PE
Joyce Hastings, PLS

Members of the Public Present

Abbie Goodman, TECET
Clarence McAllister, PE License Applicant

Division Staff Members Present
at Various Times during the Meeting:

Kathleen McNally, Executive Director of
Various Boards
Jenna Hentoff, Board Counsel
Philip Chan, Prosecuting Counsel
Eric Funk, Board Administrator

1. At 9:02AM, Executive Director Kathleen McNally provided notice that pursuant to M.G.L. Ch. 30A, § 20, the meeting would be recorded.



2. At 9:03AM, Azu Etoniru motioned, seconded by Ronald Willey, to open the meeting. Motion passed unanimously with a vote of 7-0. Members in Favor: Nancy Gould, Paul Tsang, Dan Caron, Kenneth Anderson, Ronald Willey, Azu Etoniru, and Paul Tyrell. Members opposed: None.
3. The Board reviewed the minutes of the October 26, 2023, Open Meeting. Azu Etoniru moved, seconded by Ronald Willey, to accept the minutes as written. Motion passed unanimously with a vote of 7-0. Members in Favor: Nancy Gould, Paul Tsang, Dan Caron, Kenneth Anderson, Ronald Willey, Azu Etoniru, and Paul Tyrell. Members opposed: None.
4. Chairman Paul Tyrell's safety item focused on ladder safety and encouraged everyone to hire a professional to clean out the gutters and avoid taking risks and getting hurt.
5. Chairman Paul Tyrell also took a moment to inform the Board that fellow Board member Erin Joyce was recently elected Mayor of Braintree, MA. While congratulations are in order, he stated that it was likely that she would resign her seat on the Board to focus on her Mayoral duties.
6. Chairman Paul Tyrell informed the Board that the next meeting was scheduled to be held on December 21, 2023. No conflicts were noted.
7. Executive Director Kathleen McNally advised the Board that there had been some positive movement in the discussions between senior management and PCS regarding the proposed conversion of the State Specific Jurisprudence (JP) exam from paper and pencil to a computer-based testing (CBT) format.
8. Chairman Paul Tyrell took another moment to inform the Board that fellow Board member Shannon Slaughter had also submitted her resignation from the Board as her growing family and increasingly busy legal practice had made it difficult for her to fully focus on Board matters. He acknowledged her strong values and many contributions to the Board as the Public Member.
9. Board Counsel Jenna Hentoff informed the Board that the draft language for Continuing Professional Competency (CPC) regulations remains under review. She stated all questions posed by the Governor's Legal Office had been answered and forwarded to the DOL's General Counsel for review prior to being sent to the Governor's Legal Office.
10. Board Counsel Jenna Hentoff reminded the Board that should they have any questions or are unsure about anything Board related, they should not hesitate to reach out to Executive Director Kathleen McNally, Board Counsel Patricia LaFore, Eric Funk, or to her for guidance or answers.
11. Executive Director Kathleen McNally informed the Board that the revised and updated complaint tracking spreadsheet was still undergoing review and updating with the hope that a current version would be available before the end of the year. She thanked Dan Caron for his assistance with the ongoing process.

She also informed the Board that the comprehensive review of the NCEES Enforcement Exchange is ongoing and where appropriate, disciplinary actions and dispositions taken by the Board are being reported and uploaded to the individual's NCEES Enforcement record.

Additionally, she notified the Board that all matters with an executed final decision and order will be added to the Board's packet each month for review.

12. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Azu Etoniru moved, seconded by Nancy Gould, to accept the report and ratify the application approvals. Motion passed unanimously with a vote of 7-0. Members in Favor:

Nancy Gould, Paul Tsang, Dan Caron, Kenneth Anderson, Ronald Willey, Azu Etoniru, and Paul Tyrell. Members opposed: None.

13. Chairman Paul Tyrell gave the Board a report on the one (1) land surveyor applicant interview that was conducted by the Oral Exam/Interview Committee on November 10, 2023. He informed the Board that it was an in-state applicant who was applying as a 20-year experience candidate. The full breakdown is as follows:

- **Applicant 1031374:** Applicant is a 20-year experience candidate with a lengthy career. The applicant, however, failed to demonstrate a sufficient level of understanding of the legal principles and practices of land surveying. Applicant struggled to answer questions pertaining to Colonial Ordinances, Land Court, plan recording requirements, and admitted to only a cursory understanding of Massachusetts survey law. Committee recommends that applicant complete courses on the legal principles and practices of Land Surveying in Massachusetts.

Dan Caron moved, seconded by Ronald Willey, to accept the committee's recommendations. Motion passed unanimously with a vote of 7-0. Members in Favor: Nancy Gould, Paul Tsang, Dan Caron, Kenneth Anderson, Ronald Willey, Azu Etoniru, and Paul Tyrell. Members opposed: None.

14. Board Counsel Jenna Hentoff informed the Board about an email that was received less than 48 hours prior to the meeting, from the Massachusetts Department of Environmental Protection (MassDEP) regarding the MassDEP Wetlands Program which has developed a draft Guidance document to regulate a new methodology of salt marsh restoration. MassDEP's opinion is that "some of this work constitutes engineering work as defined in M.G.L. c. 112, § 81 even though projects thus far have not had engineers involved." MassDEP is seeking comment from the Board as it has a stakeholder interest in the matter.

Azu Etoniru and Chairman Paul Tyrell volunteered to review the document and provide their feedback to Board Counsel for submission to MassDEP by the requested deadline of November 29, 2023. All other Board members were invited to provide comments as well.

Abbie Goodman requested a copy of the email from MassDEP.

15. Chairman Paul Tyrell opened the meeting for public comment and recognized Abbie Goodman who inquired if the Board had provided written responses to the three (3) emails that were discussed at the October 26, 2023 Board meeting.

Eric Funk indicated that the Board had a draft response for one of the emails but was still working on drafts for the other two (2) email responses.

Board Counsel Jenna Hentoff informed Abbie Goodman that copies of the responses would be available to her through a standard public records request.

16. At 9:31AM, Azu Etoniru moved, seconded by Ronald Willey, 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 competence, of an applicant. Motion passed unanimously with a vote of 7-0. Members in Favor: Nancy Gould, Paul Tsang, Dan Caron, Kenneth Anderson, Ronald Willey, Azu Etoniru, and Paul Tyrell. Members opposed: None.

Executive Director Kathleen McNally acknowledged that recording of the Open Session of the meeting had ended.

17. At 9:42AM, the Board exited Closed Executive Session and entered Closed Investigative Conference pursuant to G.L. c. 112, § 65C.

Report of actions taken during closed investigate conference:

- 2023-000100-IT-ENF: Refer to Prosecutions
- 2023-000112-IT-ENF: Refer to Prosecutions (Nancy Gould Recused)
- 2023-000178-IT-ENF: Refer to Prosecutions
- 2023-000254-IT-ENF: Dismiss
- 2023-000262-IT-ENF: Dismiss
- 2023-000294-IT-ENF: Tabled
- 2022-000310-IT-ENF: Dismiss with Advisory
- 2022-000311-IT-ENF: Refer to Prosecutions
- 2023-000359-IT-ENF: Refer to Prosecutions

18. At 10:14AM, Azu Etoniru moved, seconded by Ronald Willey to exit closed session and adjourn the meeting. Motion passed unanimously with a vote of 6-0. Members in Favor: Paul Tsang, Dan Caron, Kenneth Anderson, Ronald Willey, Azu Etoniru, and Paul Tyrell. Members opposed: None.

Respectfully submitted by,

Eric Funk
Board Administrator

Documents used at the public meeting:

- Agenda for November 16, 2023 Meeting
- Draft Minutes of October 26, 2023 Open Meeting
- Email from MassDEP, dated November 15, 2023, regarding a draft Guidance document to regulate a new methodology of salt marsh restoration.