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Minutes of the May 4, 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

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

Board Members Absent

Kenneth Anderson, PLS
Paul Tsang, PE

Members of the Public Present

Gabriel Crocker, PE

Division Staff Members Present at Various Times during the Meeting:

Kathleen McNally, Executive Director of
Various Boards
Jenna Hentoff, Board 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, Dan Caron motioned, seconded by Azu Etoniru, to open the meeting. Motion passed with a vote of 7-0. Members in Favor: Erin Joyce, Paul Tyrell, Dan Caron, Joyce Hastings, Azu Etoniru, Shannon Slaughter, and Ronald Willey. Members opposed: None.



3. Chairman Paul Tyrell reminded the Board that periodic inspection of a vehicle's tires, wiper blades, fluids, etc. is important to keep the vehicle running safely.
4. The Board reviewed the minutes of the March 23, 2023 Open Meeting and the minutes of the January 26, 2023 Executive Session. Azu Etoniru moved, seconded by Joyce Hastings, to accept all meeting minutes as written. Motion passed with a vote of 7-0. Members in Favor: Erin Joyce, Paul Tyrell, Dan Caron, Joyce Hastings, Azu Etoniru, Shannon Slaughter, and Ronald Willey. Members opposed: None.
5. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on May 25, 2023. Shannon Slaughter and Ronald Willey noted conflicts that would prevent them from attending.
6. Board Counsel Jenna Hentoff informed the Board that the Governor recently signed into law Chapter 2 of the Acts of 2023 which extended the expiration of provisions related to the open meeting law to March 31, 2025, including the ability to hold remote meetings. She further stated that the provision for remote meetings did not mean that all meetings had to be held remotely, just that the provision to hold meetings remotely would remain in effect until at least March 31, 2025. If the Board should choose to hold a meeting in person at the DOL offices, they could do so with proper notice.
7. Chairman Paul Tyrell briefed the Board on the numerous Law Enforcement resources, training opportunities, and presentations available to NCEES Member Boards. He wanted to make sure that the Division of Occupational Licensure's (DOL) investigators and prosecutors were aware of the resources that are available to all NCEES Member Boards.

Executive Director Kathleen McNally and Board Counsel Jenna Hentoff indicated that the information would be passed along to upper management, Office of Investigations, and Prosecutions.

8. Board Counsel Jenna Hentoff informed the Board that the draft language for Continuing Professional Competency (CPC) regulations had recently moved from the Secretariat's Office to the Executive Office of Administration and Finance (A&F) for their review.
9. Board Counsel Jenna Hentoff advised the Board that the draft "Professional Practice: A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts" ("Guide") had been approved by the Architect Board and would be provided for Agency review next.
10. Board Counsel Jenna Hentoff informed the Board that there were no further legal topics for discussion.
11. Executive Director Kathleen McNally informed the Board that there were no Executive Director topics for discussion.
12. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Ronald Willey moved, seconded by Azu Etoniru, to accept the report and ratify the application approvals. Motion passed with a vote of 7-0. Members in Favor: Erin Joyce, Paul Tyrell, Dan Caron, Joyce Hastings, Azu Etoniru, Shannon Slaughter, and Ronald Willey. Members opposed: None.
13. Chairman Paul Tyrell opened the meeting to the public for comment and recognized Gabriel Crocker.

Mr. Crocker, a licensed P.E., stated that he had recently contacted the Board regarding the first topic in the Frequently Asked Questions (FAQ) section which addresses the question, *Can a Professional Engineer (PE) certify a site plan or an as-built plan which references and/or utilizes a property line determination that was previously completed by a Professional Land Surveyor (PLS)?* He stated that he had contacted the Board to confirm that a P.E. could not certify a site plan showing property lines unless *“the PLS is a member of a project development team, the survey was commissioned for the project, and the PE’s work is added to said survey. A complete design package submitted by the project development team would include the survey stamped by the PLS and the engineering plan(s) stamped by the PE indicate the survey as “background” information,”* as noted in the FAQ response on the Board’s website.

Chairman Paul Tyrell reiterated to Mr. Crocker that while the above referenced exception does allow for such situations, it is always best when dealing with any plan showing boundary lines that a PE either *“consults with the PLS who performed the prior survey, the PLS confirms that the survey information on the filed plan reflects current conditions of the property and is sufficiently reliable to be used for the purpose of the PE’s project, and the PLS stamps the land surveying work”* as detailed in the second exception to the FAQ, or better yet, in either circumstance, have the licensed PLS stamp any and all plans that depict boundary lines, regardless of their inclusion in a design package.

Mr. Crocker was appreciative of the Board’s efforts to help clarify this topic for both engineers and land surveyors.

14. At 9:38AM, Ronald Willey moved, seconded by Azu Etoniru, to end the Open Session of the meeting and enter Closed Investigative Conference pursuant to G.L. c. 112, § 65C. Motion passed with a vote of 7-0. Members in Favor: Erin Joyce, Paul Tyrell, Dan Caron, Joyce Hastings, Azu Etoniru, Shannon Slaughter, and Ronald Willey. Members opposed: None.

Executive Director Kathleen McNally ended the recording.

Report of actions taken during closed investigate conference:

- 2022-000825-IT-ENF: Dismiss
- 2022-000878-IT-ENF: Dismiss
- 2022-000931-IT-ENF: Dismiss with Advisory
- 2022-000932-IT-ENF: Send to Prosecutions
- 2022-000933-IT-ENF: Send to Prosecutions
- 2022-000934-IT-ENF: Send to Prosecutions
- 2022-000971-IT-ENF: Send to Prosecutions
- 2022-001033-IT-ENF: Dismiss with Advisory (Paul Tyrell Recused)
- 2022-001050-IT-ENF: Dismiss
- 2022-001051-IT-ENF: Dismiss (Erin Joyce Recused)
- 2023-000108-IT-ENF: Dismiss

15. At 10:13AM, Azu Etoniru moved, seconded by Joyce Hastings to exit closed session and adjourn the meeting. Motion passed with a vote of 7-0. Members in Favor: Erin Joyce, Paul Tyrell, Dan Caron, Joyce Hastings, Azu Etoniru, Shannon Slaughter, and Ronald Willey. Members opposed: None.

Respectfully submitted by,

Eric Funk
Board Administrator

Documents used at the public meeting:

- Agenda for May 4, 2023 Meeting
- Draft Minutes of March 23, 2023 Open Meeting
- Draft Minutes of January 26, 2023 Executive Session

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