

STATE OF DELAWARE



DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS

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September 13, 2021

**MINUTES – SEPTEMBER 8, 2021 COUNCIL MEETING**

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday September 8, 2021 via teleconference (with several members in the DAPE office) at 3:00 p.m.

The Roll call was taken and a quorum was declared.

Council Members Present:	D. Barbato, P.E.	N. Batta, P.E.
	M. Clendaniel, P.E.	N. Dean, P.E.
	W. Gamgort, Esq.	J. Hastings, P.E.
	J. Jakubowski, P.E.	J. Kalmbacher, P.E.
	K. Maxson, P.E.	C. McAllister, P.E.
	D. Reinhold, P.E.	R. Smith, Esq.
	K. Tadler, P.E.	

Council Members absent:	M. Siwek, P.E.	R. Wheatley
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Exec Committee Member Present:	C. Balascio
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DAG present:	E. Kelly
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Staff present:	J. Wootten
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Members of the public present:	R. Abbott	R. Batta
	F. Belafonte	M. Davis

Meeting was called to order at 3:01 PM.

Motion by M. Clendaniel, seconded by C. McAllister, agenda be modified to move Open Forum to the end of the meeting after new business. Approved unanimously.

**Election of Officers**

The proposed slate of officers presented to Council by the Executive Committee for the 2021/2022 Council year is:

- President: Joseph Jakubowski
- Vice President: Michael Clendaniel
- Secretary: Charles McAllister
- Treasurer: Karen Maxson
- Immediate Past President: Carmine Balascio

With no additional nominations from the floor, motion by C. McAllister, seconded by D. Barbato, nominations for Council officers be closed. Approved unanimously.

Motion by M. Clendaniel, seconded by C. McAllister, J. Jakubowski be approved as Council President. Twelve approved with one abstention (Jakubowski).

Motion by K. Maxson, seconded by J. Hastings, M. Clendaniel be approved as Council Vice President. Twelve approved with one abstention (Clendaniel).

Motion by D. Reinhold, seconded by J. Hastings, C. McAllister be approved as Council Secretary. Twelve approved, with one abstention (McAllister).

Motion by K. Tadler, seconded by D. Reinhold, K. Maxson be approved as Council Treasurer. Twelve approved, with one abstention (Maxson).

### **Minutes of the August 11, 2021 Council Meeting**

Council reviewed the Minutes of the August 11, 2021 Council meeting.

*Motion by M. Clendaniel, seconded by K. Maxson, to approve the minutes of the August 11, 2021 meeting as amended to include the members of the public that were present (N. Batta and T. Lingerfelt) and update the NCEES section to note that the engineering forum related to the annual meeting took place. Approved as amended unanimously.*

### **D.A.G. Report**

DAG Kelly summarized the contents of the File 19-056 Hearing Committee Recommendation/Order Dismissing Complaint and the statutory provision 2824(b)(3) related to the standard of review for DAPE hearings. Council members with a conflict in the matter identified themselves.

Motion to accept hearing committee's recommended Order Dismissing Complaint and authorize Council signatures on final order by K. Maxson, seconded by D. Barbato.

Hearing Panel: M. Lennon, J. Hastings, K. Tadler

Approved: D. Barbato, N. Dean, W. Gamgort, J. Kalmbacher, K. Maxson, R. Smith

Recused: N. Batta, M. Clendaniel, J. Jakubowski, C. McAllister, D. Reinhold

### **Financial Reports**

M. Clendaniel summarized DAPE's finances for the four months (33.3%) of fiscal year ending April 30, 2022, which reflect income has reached 59.7% of projections and expenses 24.3%. Cover & Rossiter has sent a draft of their Audit report, which will be reviewed by the Finance Committee and finalized prior to the October 2021 Council meeting.

*Motion by M. Clendaniel, seconded by K. Maxson, Council accepts the Finance Report subject to audit. Approved unanimously.*

*Motion by M. Clendaniel, seconded by C. McAllister, Council approve new Finance/Employee Compensation & Benefits Committee/Facilities Committee member M. Lennon.*

### **Committee Reports**

#### **Executive Committee**

The Executive Committee met just prior to the Council meeting, therefore, a written report is unavailable. Items discussed at Executive Committee meeting will be covered under the appropriate Committee reports.

**Finance/Employee Compensation & Benefits Committee/Facilities Committee** – No Report

### **Law Enforcement/Ethics Committee**

C. McAllister reported that the committee met on September 1, 2021 and discussed the following:

- Continued work on drafting proposed legislative amendment language to define standard of care, negligence and gross negligence (DAG Mulveny to refine draft language); also discussed drafting definition for successor engineer and suggested amendment to Section 2830 of law.
- Will recommend closure of 4 files

*Motion by C. McAllister, seconded by M. Clendaniel, Council approves the closure of 4 files as listed on Exhibit A of the Committee's report. Approved unanimously.*

### **Examining Committee**

K. Tadler reported that the Committee met on August 25, 2021, and discussed the following:

The committee reviewed 53 individual applications for licensure and confidential recommendations were made for Council action at their meeting August 11, 2021 consisting of 36 applications for comity (all recommended for license approval), 13 applications for examination (all recommended for approval to take the PE exam), 4 applications for initial licensure after successful passage of the PE exam as a decoupling candidate (all recommended for approval). All recommendations for licensure or approval to take the P&PE exam are shown on Exhibit A1 which is now ready for Council action.

One applicant met all requirements for licensure after successful passage of a computer-based P&PE exam. Recommendations for licensure are shown on Exhibit A2.

*Motion by K. Tadler, seconded by M. Clendaniel, Council approves the Committee's recommendations for applications for licensure as noted on Exhibits A1 and A2 of the committee's report as amended just prior to the Council meeting. Approved unanimously*

The Committee also reviewed 7 applications for Certificate of Authorization. Committee recommendations are noted on Exhibit A3.

*Motion by K. Tadler, seconded by K. Maxson, Council approves the Committee's recommendations for Certificates of Authorization as noted on Exhibit A3 of the committee's report. Approved unanimously.*

The backlog of applications (which the Committee has reviewed but are not ready for Council action) is shown on Exhibit B.

**External Affairs Committee** – No Report

**Public Information Joint Committee** – No Report

**Government Affairs/By-Laws Committee** – No Report

**Nominating Committee** – No Report

**Correspondence** – None.

### **NCEES**

September 15, 2021 Virtual Annual Meeting. J. Jakubowski will be DAPE's voting delegate. He summarized the 43 motions that will be voted upon. NCEES has published a summary on their annual

meeting website, and was hosting a webinar to discuss. While this was scheduled at the same time as the DAPE Council meeting, a recording will be available. 34 items will be voted on the consent agenda. Council members are encouraged to review the NCEES documentation and reach out to J. Jakubowski with feedback or concerns. J. Wootten will reach out to a registered PLS board member to get their feedback on an issue related to Professional Land Surveyor requirements.

### **Old Business**

- HB 142 Update – awaiting Governor's signature. M. Davis reported that this delay is not unusual, and she'll reach out in early October if necessary.
- October 5 New PE/Volunteer Appreciation dinner - RSVP by September 23.

### **New Business**

*Motion by C. McAllister, seconded by D. Barbato, Council approve Examining Committee' recommendations to amended CPC Guidelines. After further discussion, the amendment will include additional changes to Section I as follows:*

- I. **Comity/Out-of-Jurisdiction Resident** -- Licensees who are residents of jurisdictions other than Delaware and licensed in that jurisdiction **may** meet the CPC requirements of their resident jurisdiction. If the licensee resides **in and is licensed in a jurisdiction** that has no continuing professional competency (CPC) requirement, or the licensee is exempt from the CPC requirement in the licensee's resident jurisdiction, the licensee must meet the requirements of Delaware.

*Approved as amended unanimously.*

J. Jakubowski reported that the following Council members have agreed to serve as Committee chairs for the 2021-2022 year:

- Michael Clendaniel: Finance/Employee Compensation & Benefits/Facilities & Ad Hoc 50<sup>th</sup> Anniversary
- Ronald Smith: By-Laws/Government Affairs
- Kenneth Tadler: Examining
- Jason Hastings: Public Information
- Charles McAllister & David Reinhold: Law Enforcement & Ethics Committee
- Karen Maxson: Nominating
- Jeremy Kalmbacher: External Affairs

**Open Forum** – no comments from members of the public

Motion by K. Maxson, seconded by M. Clendaniel, to adjourn. Approved unanimously. Meeting adjourned at 4:24 PM.

### **Upcoming Meeting: October 13, 2021 at 3:00 PM**

Hybrid: Council members are encouraged to participate in person at 92 Read's Way New Castle DE; Zoom: +1 929 436 2866 Meeting ID: 968 485 585 Password: 851 686 Browser link:

<https://us02web.zoom.us/j/968485585?pwd=RkxVZmxzemRPR2NFRytGS1VPeDlrUT09>