

STATE OF DELAWARE



DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS
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April 26, 2011

MINUTES – COUNCIL MEETING, APRIL 13, 2011

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday, April 13, 2011 at the DAPE offices, New Castle, Delaware.

President Pawlowski convened the meeting at 3:10 p.m.

Council Members present:	D.P. Barbato, P.E.	C.L. McAllister, P.E.
	D.G. Clark, P.E.	H.M. Medlarz, P.E.
	K.R. Kooker, P.E.	G.G. Pawlowski, P.E.
	R. Leitsch, P.E.	V.G. Robertson, Esq.
	M. Lester, P.E.	A.D. Shine, P.E.
	G.F. Marcozzi, P.E.	M. Siwek, P.E.

Council Members absent:	Z. Crouch, P.E.
	F.A. Newton
	J.E. Tracey, Esq.

Staff present:	P. Abshagen
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DAG:	Catherine "Terry" Hickey, Esq.
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Roll call was taken and quorum declared.

Open Forum

No guests scheduled to speak at today's Council meeting.

Minutes of March 9, 2011 Council Meeting

Council reviewed the Minutes of the March 9, 2011 Council meeting. Motion by McAllister, seconded by Robertson, Council approve the minutes of the March 9, 2011 Council meeting as submitted. Approved unanimously.

DAG Report

- Sussex County letter, addressing County Code Section 52-18C, has been mailed to Sussex County and there has been no response within the thirty days provided. DAG Hickey to discuss follow-up with DAG Kerber.
- Depositions/Grayson Case – President Pawlowski and Executive Director Abshagen were required to provide depositions in the Grayson case. DAG Hickey attended these depositions.
- Council discussions via email -- DAG Hickey reminded Council members they represent a public entity and are subject to the open meeting law. Council discussions are required to be noticed and have a quorum present, etc. There should be no serial discussions via email. DAG Hickey to look into the state's policy.

Motion by Medlarz, seconded by Kooker, DAG Hickey issue a clarifying statement regarding Council members' discussions via email and what can and what cannot be sent via email. Approved unanimously (This will be presented at the June Council meeting, as DAG Hickey will not be attending the May meeting.)

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.

Financial Report

Income/expense activity -- The first eleven months of the fiscal year reflects income at 103% (includes deferred income monies) and expenses at 86% of projections.

Chair McAllister reported on the committee's meeting of 3/15/11:

- Two **auditing firms** provided brief presentations to the committee on their firm's capabilities, size of firms, services offered and fees. Committee is recommending Barbacane Thornton & Company as the new auditing firm. They have non-profit clients and were not as large a firm as Belfint, Lyons & Shuman.

Motion by McAllister, seconded by Kooker, Council approve Barbacane Thornton & Company's proposal for auditing and other services for fiscal year 2010/2011 audit. Approved unanimously.

- **Health insurance** proposals will be investigated prior to our next renewal period.
- **Investment** of accumulated cash in the investment accounts was discussed and the consensus of the committee is to retain the ladder investment strategy through 2014 – 2016.
- **2011/2012 Budget** – Committee proposes income and expense projections of \$512,000 for the upcoming fiscal year 2011/2012. Monies have been budgeted for hosting the 2012 NCEES NE Zone meeting, as well as a Council/Committee Education program. The Finance Committee is open to considering other requests for the expenditure of monies with appropriate rationale, such as outreach to DAPE membership with CPC programs, education programs for Council and committee members, etc.

Motion by Marcozzi, seconded by Medlarz, Council approve the proposed 2011/2012 budget. Approved unanimously.

- **Reserve Fund** -- With approval of the budget, recommendation to increase the Reserve Fund level to \$525,000.

Motion by Medlarz, seconded by Marcozzi, Council approve increasing the level of the Reserve Fund to \$525,000 to meet the requirements of the bylaws. Approved unanimously.

Employee Compensation & Benefits Committee

- Committee completed its annual review of Executive Director and recommends to Council a salary adjustment of 2% effective May 1st.
- Committee also recommends Director Abshagen search for another full-time employee within the next year.

Law Enforcement/Ethics Committee

Council reviewed the report of the committee's meeting on April 6, 2011.

Hearing Panel/Presentation -- Hearing Panel Chair V. Robertson provided a presentation to the LE/E Committee and shared several recommendations:

- LE/E Committee members should attend a hearing
- DAG should hold a practice hearing
- Expert witness should not be an LE/E committee member
- An education forum would be helpful for committee and Council members. Forum could discuss due process, gathering evidence, etc.

EPA -- It was suggested the EPA position could be doing more investigative work; and should separate rates for engineering vs. gathering evidence. Perhaps, the services of an investigator should be enlisted vs. an engineer doing investigative work.

Case Closures -- The committee is recommending the closure of 6 cases as listed on Exhibit A of its report dated April 13, 2011.

Motion by Shine, seconded by Robertson, Council approve the closure of the six (6) cases as listed on the LE/E report dated April 13, 2011.

Examining Committee

Council reviewed the report of the Examining Committee's meeting of March 30, 2011. Forty-one (41) individual applications for licensure were reviewed and confidential recommendations made for Council action consisting of **32** applications for **comity**; **2** applications for licensure for applicants that are not currently licensed; and **7** applications for **examination**. The Committee also reviewed **14** applications for **Certificate of Authorization**; **7** requests for Reinstatement of licenses; and **3** applications for Temporary Permit.

Motion by Robertson, seconded by McAllister, Council approve the Committee recommendations for licensure as listed on Exhibits A1-A2 of the committee's report dated March 31, 2011. Approved unanimously.

Subsequent to the committee's meeting, an additional application for Certificate of Authorization for Harold Hart & Associates was reviewed and is recommended for approval. Motion by Shine, seconded by McAllister, Council approve the Certificate of Authorization for Harold Hart & Associates. Approved unanimously.

Motion by Shine, seconded by Robertson, Council approve the Committee recommendations for Reinstatement of license and Temporary Permits, as listed on Exhibit A3. Approved unanimously.

Council member Marcozzi presented to the Examining Committee a proposed mandatory CPC program for their review and comments.

April exam administration was uneventful, with the exception of the prohibition of cell phones policy. Examinees are advised in writing prior to the exam, with numerous verbal announcements prior to entering the exam room of the cell phone policy. President Pawlowski proctored the Saturday morning exam making one final announcement when all were seated, and numerous cell phones were turned in at that point.

External Affairs Committee

Council member Barbato pursued the inquiry of concerns that PE's may be submitting incomplete sealed plans to the State of Delaware Division of Facilities Management (DFM) during the process required for design plan approval.

Barbato reports that the state requires sealed design plans for projects that will go to public bid. The primary concern raised was that engineers were submitting incomplete sealed plans for review, with the intent of finishing the design and submitting complete sealed plans after receiving DFM comments.

State of Delaware review and approval procedures require that plans subject to use for public bid be sealed prior to final approval by the State. DFM typically needs 30 days to review plans. DFM acknowledges that some plans may require additional work following their review and comment to the engineer. DFM states that is the engineer's risk to submit incomplete plans, and does not encourage this practice. DFM also stated that they would refer cases where there are apparent design issues or omissions that constitute negligence.

In review of this situation, it appears to be best handled by the engineer adding notes to the seal to clarify what is being provided for review, or to avoid submitting incomplete plans. DFM does not encourage this, and it is the engineer's risk to submit incomplete plans. At this time, DFM does not report any plans submission that appear to have issues.

Plans submitted for review, not for construction need to be indicated as such by engineers.

Council member Leitsch stated that owners, architects, construction managers and other agencies do not understand the policy and dictate scheduling. Jobs are being finished by addendum, and the process is getting further out of control.

Council member Barbato to follow-up with DFM and report back to Council.

This is a good topic to include in the newsletter to the DAPE membership.

Facilities, Services & Equipment

Council members' Ipads-2 are budgeted for the upcoming fiscal year. Model language use policy to be developed.

Public Information Committee

Spring newsletter to be published late May. President Pawlowski still searching for a Chair of this committee.

Government Affairs/Bylaws Committee -- No report.

Ad-Hoc/Policies & Procedures Manual -- No report

Ad-Hoc/CPC

CPC proposal forwarded to Examining Committee for review and comments.

NCEES

NCEES NE Zone Meeting -- Scheduled for 5/19 – 5/21 in Annapolis, Maryland. Council members Barbato, McAllister, Pawlowski and Shine, as well as Executive Director Abshagen will be attending. DAPE will provide a brief presentation for the 2012 NE Zone meeting to be held at Dover Downs.

CORRESPONDENCE -- None

OLD BUSINESS -- None

NEW BUSINESS -- None

There being no further business to come before Council, the meeting was adjourned at 5:25 p.m. Next meeting to be held in Kent County.

Respectfully submitted,

Hans M. Medlarz, P.E., Secretary

/pa
c/c: Minutes Book
Council Members
Catherine Hickey, D.A.G.