

STATE OF DELAWARE



**DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS**  
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February 22, 2011

**MINUTES – COUNCIL MEETING, February 9, 2011**

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday, February 9, 2011 at the Deerfield Conference Center, Newark, Delaware.

President Pawlowski convened the meeting at 3:15 p.m.

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

Staff present: P. Abshagen

DAG: Catherine "Terry" Hickey, Esq.

Roll call was taken and quorum declared.

**Open Forum**

Andrea Morris, P.E. has been invited as a guest speaker for today's public forum. The Distinguished Service Award presentation will take place after the Council meeting today.

President Pawlowski introduced Ms. Morris who is employed in industry by Boeing. She's here today to discuss her take on licensure in the aerospace industry.

Morris indicated she is licensed where a license is not specifically required in a fast moving industry. Sometimes it could be a liability, as well as a good foundation. It makes you a target where most people are not licensed. Code of Ethics, Canon 3 references truthful reports – this could be an issue in a fast-paced industry. She could lose her job if you are holding things up. Many "engineers" in industry are not degreed, not licensed, and there is so much competition in contracts. Licensing in an unlicensed industry can sometimes hinder your career. Morris suggests mentoring is crucial to the profession.

## **Minutes of January 14, 2011 Council Meeting**

The Council reviewed the Minutes of the January 14, 2011 Council meeting, and recommends approval of the Minutes as written.

Motion by Newton, seconded by Robertson, Council approve the Minutes of the January 14, 2011 Council meeting as written. Approved unanimously.

Council member Marcozzi requests his absence from the January 14, 2011 meeting be indicated as excused.

## **DAG Report**

- Hearing Panel Report – DAG Hickey distributed for Council's review copies of the Hearing Panel's report in the disciplinary matter of J. O'Connell, P.E. (Case 09/094). Council reviewed the report.

Motion by Newton, seconded by Barbato, Council approve the recommendation of the Hearing Panel in Case 09/094.

*(Council member Tracey recused from discussion.)*

It was noted on page 6 of the report, inspector's name should be corrected to Kyle Gordon.

DAG Hickey reminded Council of their duty to approve or reject the Hearing Panel's recommendation based on the Order. It may only be overturned if the recommendation is contrary to law, arbitrary or capricious.

Vote on motion to approve recommendation of the Hearing Panel: 12-AYE; 2-ABSTAIN (Marcozzi, Leitsch); 1 RECUSAL (Tracey). Motion carried.

Chair of the Hearing Panel, V. Robertson indicated the LE/E Committee has the benefit of substantial information obtained during its investigation. Hearings need to have a clear presentation of the facts in a concise, logical manner. Robertson has offered to meet with both the DAG and the LE/E Committee to outline what needs to be presented in future cases. He also suggests an independent investigator needs to be more involved. The focus needs to be on the specific allegations and the supporting evidence.

DAG Hickey offered that more concise hearings are possible still providing due process. To provide fair hearings is to allow the opportunity to examine evidence and provide testimony to refute. It would be worthwhile to have a discussion with all parties to determine how much time each side needs; divide the time equally – if additional time is necessary, as long as it is reasonable, it can be granted. During a pre-trial conference, relevant facts can be sorted out, which forces both sides to focus on pertinent information only.

LE/E is requesting guidance on investigations for the committee.

Motion by Pawlowski, seconded by McAllister, DAG Hickey be authorized to discuss with respective parties time limits and relevant issues to focus on key points. 14-AYE; 1-OPPOSED (McAllister). Motion carried.

DAG Hickey will assist with drafting a time limit policy to be reviewed by Council.

## **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 nine months of the fiscal year reflects income at 93% (includes deferred income monies) and expenses at 70% of projections.

Motion by McAllister, seconded by Robertson, Council approve this finance report subject to audit. Approved unanimously.

### **Employee Compensation & Benefits Committee**

Administrative Assistant Betsy Mitchell has resigned following a discussion on the quality of her work. A temporary replacement has been identified and is manning the office. Future of this position and a strategy for securing competent help for the office to be discussed.

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

Council reviewed the report of the committee's meeting on February 2, 2011.

Sussex County -- DAG Kerber has drafted a letter to the Sussex County Council President that has the support of both the Board of Architects and DAPE LE/E Committee concerning Section 52-18C of the Sussex County Code that does not require an engineer or architect be involved in buildings/structures of less than 5,000 s.f. DAG Hickey has reviewed the letter and is awaiting approval from her office.

Case Closures -- The committee is recommending the closure of 1 case as listed on Exhibit A of its report dated February 7, 2011.

Motion by McAllister, seconded by Shine, Council approve the closure of the 1 case listed on Exhibit A of the report dated February 7, 2011. Approved unanimously.

Case 10/004 -- Council advised this investigation determined there is a safety issue with a structure and the building official has been notified of our concerns. DAG Kerber is drafting a formal complaint and/or Consent Agreements.

### **Examining Committee**

Council reviewed the report of the Examining Committee's meeting of January 31, 2011. Forty-one (41) individual applications for licensure were reviewed and confidential recommendations made for Council action consisting of **20** applications for **comity**; and **21** applications for **examination**. The Committee also reviewed **7** applications for **Certificate of Authorization**; **4** requests for Reinstatement of PE licenses; and **1** application for Reinstatement of Certificate of Authorization.

Motion by Marcozzi, seconded by Crouch, Council approve the committee's recommendations for licensure as shown on Exhibits A1-A2 of the report dated February 2, 2011. Approved unanimously.

Discussion:

University of Delaware expressed concerns on the several UD students who did not complete the FE application process and were not permitted to take the exam in October, 2010. Several representatives of both DAPE and UD met recently.

- DAPE offered to investigate improving the electronic applications to perhaps generate an auto-response regarding the status of an application once application is made. (Several emails from students were shared with DAPE, indicating that most students had problems with the signed affidavit.
- It was suggested that campus registration be extended to two days – perhaps supplying multiple computers for NCEES registration.
- The issue of refunding money to those students who were unable to sit for the exam was briefly discussed.

Council discussed that it would be unlawful to refund fees, and that a precedent would be set for others seeking such refund. Council suggests an “end game plan” to get UD students on board with the necessary steps to complete the application process.

### **External Affairs Committee**

Joint Advisory Committee (JAC) is scheduled to meet on February 24th. C. McAllister will attend with his replacement D. Barbato.

### **Facilities, Services & Equipment**

- Old copier was sold for \$2,000. (\$1,000 given to copier salesman for sale).
- Ipad use policy – For broad use in DAPE meetings. DAG Hickey to draft policy. (North Carolina board has informal policy.)

### **Public Information Committee**

Chair Siwek is researching publicizing Distinguished Service Award announcement in the media. Suggests soliciting feedback in the newsletter for future publication. He has also been in discussion with the NSPE PR individual and will check with other states on their use of public relations tools.

### **Government Affairs/Bylaws Committee**

Chair Tracey reported the committee has not met since its previous meeting. Proposed law changes to be drafted by the DAG and comments will be solicited for draft revision. Will meet with lobbyist before end of February.

### **Ad-Hoc/Policies & Procedures Manual**

Chair Newton advised this task is more formidable than previously thought, as this document has not been revised since 1994. Suggests that those issues that are addressed in the bylaws and law are not necessary in the policy manual.

### **Ad-Hoc/CPC**

Chair Marcozzi will present his proposal to the Examining Committee and will solicit comment from the DAPE membership.

### **NCEES**

- Board Presidents' Assembly -- February 10-12, 2011, Atlanta, GA – President Pawlowski and Executive Director Abshagen will be in attendance. (This is funded by NCEES.)

**CORRESPONDENCE** -- None

**OLD BUSINESS** -- None

**NEW BUSINESS** -- None

There being no further business to come before Council, the meeting was adjourned at 5:15 p.m.

Respectfully submitted,

Hans M. Medlarz, P.E., Secretary

/pa

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