

STATE OF DELAWARE



DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS
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MINUTES – COUNCIL MEETING, January 11, 2017

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday, January 11, 2017, at the Grey Fox Grill, Dover, Delaware.

Vice President Lennon convened the meeting at 3:10 p.m.

Council Members Present:	M. Clendaniel, P.E.	J. Ludman, P.E.
	S. Gharebaghi, P.E.	C. McAllister, P.E.
	R. Hayden, P.E.	E. Retzlaff, P.E.
	J. Jakubowski, P.E.	R. Smith, Esq.
	M. Lennon, P.E.	J. Tracey, Esq.
	M. Lester, P.E.	R. Wheatley

Council Members absent:	C. Balascio, P.E.	-	excused
	W. Balascio, P.E.	-	excused
	D. Barbato, P.E.	-	excused

Staff present: P. Abshagen

DAG present: Catherine Hickey

The Roll call was taken and a quorum was declared.

Open Forum -- No report.

Minutes of the December 14, 2016 Council Meeting

Council reviewed the Minutes of the December 14, 2016 Council meeting and recommends the Minutes be approved as submitted.

Motion by Gharebaghi, seconded by McAllister, Council approve the Minutes of the December 14, 2016 as submitted. Approved unanimously.

D.A.G. Report

HVACR Overlapping Practice – The HVACR statute permits design, which overlaps with the responsibility of the engineer. The question is what kind of design can an HVACR do – it doesn't appear to be limited to residential or light commercial, etc. DAG Hickey is following up with the DAG of the HVAC board.

Rule to Show Cause Hearings – DAG Hickey reminded Council that as a result of no response to our CPC audits, on November 15, 2016 sixteen hearings took place, attended by 3 individuals to offer testimony on their behalf. Others submitted electronic documents which were considered. In these proceedings, the burden of proof is on the licensee. The Hearing Panel consisted of Council members C. Balascio, Clendaniel and Hayden. The Hearing Panel's recommendations are:

#9910 – Alas, Linovic

- Attested to meeting requirements upon renewal
- Indicated had a medical issue from 2014 (surgery in Dec. 2014)
- Failed to comply with and satisfy CPC guidelines and produce records to support claimed credits
- Recommendation to revoke license for failure to meet requirements for licensure

Motion by Tracey, seconded by Wheatley, Council approve the Final Order in the matter of licensee #9910. Approved. (Recused: Clendaniel, Hayden)

#10143 -- Baldo, Steven

- Failed to comply with CPC requirements for renewal
- Did not attend the hearing
- Recommendation to issue reprimand; suspension until CPC has been met during next 60 days; otherwise license revoked

Motion by Tracey, seconded by Retzlaff, Council approve the Final Order in the matter of licensee #10143. Approved. (Recused: Clendaniel, Hayden)

Motion by Wheatley, seconded by Ludman, Council authorize the President to issue the letter of reprimand. Approved unanimously. (Recused: Clendaniel, Hayden)

#8009 -- Branger, Michael

- Attested to meeting requirements upon renewal
- Did not attend the hearing, as he is in Cuba and requested to have his license cancelled
- Failed to comply with and satisfy CPC guidelines and produce records to support claimed credits
- Recommendation to revoke license for failure to meet requirements for licensure

Motion by Retzlaff, seconded by Tracey, Council approve the Final Order in the matter of licensee #8009. Approved. (Recused: Clendaniel, Hayden)

#5070 -- Dalrymple, Robert A.

- Attested to meeting requirements upon renewal
- Did not attend the hearing and requested to relinquish his license
- Failed to comply with and satisfy CPC guidelines and produce records to support claimed credits
- Recommendation to revoke license for failure to meet requirements for licensure

Motion by Tracey, seconded by Retzlaff, Council approve the Final Order in the matter of licensee #5070. Approved. (Recused: Clendaniel, Hayden)

#11053 -- Doshi, Rajnikant

- Attested to meeting requirements upon renewal
- Attended the hearing and reported that he had provided CPC information to his secretary, who unfortunately passed away weeks before the hearing. He's licensed in multiple jurisdictions and has accumulated many pdh's.
- Recommendation to issue reprimand; suspension until CPC has been met during the next 60 days; be required to take an additional 3 pdh's in ethics

Motion by Tracey, seconded by Wheatley, Council approve the Final Order in the matter of licensee #11053. Approved. (Recused: Clendaniel, Hayden)

Motion by Tracey, seconded by Lester, Council authorize the President to issue the letter of reprimand. Approved. (Recused: Clendaniel, Hayden)

#11233 -- Dumack, Heath

- Attested to meeting requirements upon renewal
- Did not attend the hearing
- Provided adequate documentation to support 9 pdh's vs. 24 required
- Recommendation to issue reprimand; suspension until CPC has been demonstrated within next 60 days; be required to take an additional 3 pdh's in ethics.

Motion by Retzlaff, seconded by Tracey, Council approve the Final Order in the matter of licensee #11233. Approved. (Recused: Clendaniel, Hayden)

Motion by Tracey, seconded by McAllister, Council authorize the President to issue the letter of reprimand. Approved. (Recused: Clendaniel, Hayden)

#7718 -- Eilinger, Frederick

- Attested to meeting requirements upon renewal
- Did not attend the hearing
- Provided electronic copies of his CPC documentation which was determined to be adequate
- Recommendation to issue reprimand

Motion by Tracey, seconded by Lester, Council approve the Final Order in the matter of licensee #7718. Approved. (Recused: Clendaniel, Hayden)

Motion by Tracey, seconded by Lester, Council authorize the President to issue the letter of reprimand. Approved. (Recused: Clendaniel, Hayden)

#2506 -- Ford, Robert

- Attested to meeting requirements upon renewal
- Did not attend the hearing
- Provided copies of his CPC documentation, as well as confirmation from the Pennsylvania Director that he met the CPC requirements of PA. Documentation was determined to be adequate.
- Recommendation to issue reprimand

Motion by McAllister, seconded by Ludman, Council approve the Final Order in the matter of licensee #2506. Approved. (Recused: Clendaniel, Hayden)

Motion by Retzlaff, seconded by McAllister, Council authorize the President to issue the letter of reprimand. Approved. (Recused: Clendaniel, Hayden)

#3071 -- Gariano, William J.

- Attested to meeting requirements upon renewal
- Did not attend the hearing
- Recommendation to issue reprimand; suspension until CPC requirements met within 60 days; otherwise license revoked.

Motion by Tracey, seconded by Retzlaff, Council approve the Final Order in the matter of licensee #3071. Approved. (Recused: Clendaniel, Hayden)

Motion by Retzlaff, seconded by McAllister, Council authorize the President to issue the letter of reprimand. Approved. (Recused: Clendaniel, Hayden)

#5157 -- Kilsheimer, Allyn

- Attested to meeting requirements upon renewal
- Did not attend hearing; mistakenly assumed he was exempt from CPC as a comity licensee, although DC does not have any CPC requirements
- Provided documentation for 13 vs. 24 pdh's
- Recommendation to issue reprimand; suspension until CPC requirements met within 60 days; otherwise license revoked.

Motion by McAllister, seconded by Jakubowski, Council approve the Final Order in the matter of licensee #5157. Approved. (Recused: Clendaniel, Hayden)

Motion by Tracey, seconded by Retzlaff, Council authorize the President to issue the letter of reprimand. Approved. (Recused: Clendaniel, Hayden)

#8618 -- Lawler, James

- Attested to meeting requirements upon renewal
- Did not attend hearing as he was in Saudi Arabia
- Recommendation to issue reprimand; suspension until CPC requirements met within 60 days; otherwise license revoked.

Motion by Retzlaff, seconded by Lester, Council approve the Final Order in the matter of licensee #8618. Approved. (Recused: Clendaniel, Hayden)

Motion by Tracey, seconded by Jakubowski, Council authorize the President to issue the letter of reprimand. Approved. (Recused: Clendaniel, Hayden)

#3840 -- Richter, Raymond

- Attested to meeting requirements upon renewal
- Did attend hearing and advised he mistakenly sent the audit documentation to himself rather than DAPE. Advised his family has experienced some significant medical difficulties in FL, which has taken him out of town on various occasions.
- Recommendation to issue letter of concern reminding him of his responsibility to accurately address correspondence to DAPE. (This is not a reportable disciplinary matter.)

Motion by Tracey, seconded by McAllister, Council approve the Final Order in the matter of licensee #3840. Approved. (Recused: Clendaniel, Hayden)

Motion by Tracey, seconded by Jakubowski, Council authorize the President to issue the letter of concern. Approved. (Recused: Clendaniel, Hayden)

#6910 -- Roof, Robert

- Attested to meeting requirements upon renewal
- Did not attend the hearing and requested his license be deactivated
- Failed to comply with and satisfy CPC guidelines and produce records to support claimed credits.
- Recommendation to revoke license for failure to meet requirements for licensure.

Motion by Ludman, seconded by Lester, Council approve the Final Order in the matter of licensee #6910. Approved. (Recused: Clendaniel, Hayden)

#6686 -- Silver, Aaron

- Attested to meeting requirements upon renewal
- Did not attend hearing as he resides in California
- Provided documentation to support 5 of the claimed 25 pdh's.
- Recommendation to issue reprimand; suspension until CPC requirements met within 60 days; otherwise license revoked.

Motion by Ludman, seconded by Tracey, Council approve the Final Order in the matter of licensee #6686. Approved. (Recused: Clendaniel, Hayden)

Motion by Gharebaghi, seconded by Jakubowski, Council authorize the President to issue the letter of reprimand, acknowledging consideration of the comments in his 1/3/17 response, including that Council's actions are deemed to be just and fair. Approved. (Recused: Clendaniel, Hayden)

#9621 -- Varghese, Sanjeev

- Attested to meeting requirements upon renewal
- Did attend hearing and provided a log of activities and acceptable documentation to support the claimed pdh's
- Recommendation to issue letter of concern reminding him of his responsibility to accurately provide current contact information. (This is not a reportable disciplinary matter.)

Motion by Tracey, seconded by Wheatley, Council approve the Final Order in the matter of licensee #9621. Approved. (Recused: Clendaniel, Hayden)

Motion by Lester, seconded by McAllister, Council authorize the President to issue the letter of concern. Approved. (Recused: Clendaniel, Hayden)

#7783 -- Warner, George

- Attested to meeting requirements upon renewal
- Did not attend hearing or provide any additional documentation
- Failed to comply with and satisfy CPC guidelines and produce records to support claimed credits
- Recommendation to revoke license for failure to meet requirements for licensure

Motion by Retzlaff, seconded by Tracey, Council approve the Final Order in the matter of licensee #7783. Approved. (Recused: Clendaniel, Hayden)

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 Benefits & Compensation

- Finances for 67% of fiscal year ending April 30, 2017 reflect income has reached 98% of projections; and expenses 41%.

Motion by Lester, seconded by Hayden, Council accept the Finance Report subject to audit. Approved unanimously.

- P. Abshagen out for the month of February. Office coverage by Mary Savona and Rene Hiles.

Law Enforcement/Ethics Committee

Chair McAllister reported on the committee's meeting on 1/4/17.

Old Business:

- DNREC-Class B designs for lift stations -- MOU still under review by DNREC
- Code of Ethics – Proposed revisions have been tabled until the conclusion of the governor's Licensing Review Committee's final report.
- California board shared info on Google's Certified Professional Data Engineer program to determine other states' concern with this issue. Forwarded to DAG Jarosz for comment.

Committee is recommending closure of 4 cases.

Motion by Tracey, seconded by Hayden, Council approve the closure of the 4 cases listed on Exhibit A of the committee's report. Approved unanimously.

Examining Committee

Chair Lester reported on the committee's meeting of January 5, 2017. One hundred seventeen (117) applications for licensure, including 42 for **comity**; 52 applications for those successfully **passing** the October 28, 2016 exam; and 23 applications for **examination** were reviewed. Committee also reviewed 7 applications for **Certificates of Authorization**; and 7 applications for **Reinstatement of Certificate of Authorization**.

Motion by Lester, seconded by Gharebaghi, Council approve the applications for licensure as listed on Exhibits A1-A5 of the Committee's report. Approved unanimously.

External Affairs Committee -- No report.

Facilities Committee -- No report.

Government Affairs/By-laws Committee

Several proposed law revisions have been discussed during the past year. These include:

- ✓ Section 2806(f)(3) – to reduce the number of years from 10 to 4 that a license may remain “Inactive”
- ✓ Section 2816 – update to indicate the Code of Ethics is available on the DAPE website (vs. shall be provided free of charge or sent to applicants)
- ✓ Section 2820 – Temporary permit issued contingent upon application for permanent licensure
- ✓ Section 2929 – electronic signature in compliance with Delaware law permissible; eliminate need for embossed (vs. rubber stamp) seal to complete registration requirements
- ✓ New/disciplinary action – Add voluntary surrender of a license to avoid disciplinary action by another jurisdiction is grounds for disciplinary action

The consensus of Council was in favor of these proposed revisions. Language to be drafted for further consideration.

Public Information

- Winter issue of the newsletter is under discussion

Correspondence

- Maryland board member David Mongan has sent a letter seeking support for his candidacy for NCEES Treasurer during the 2017 NE zone meeting.
- S. Gharebaghi reported on his communication with an FE who although passed the exam in 2012, didn't provide the appropriate documentation for certification until 2015, which is now causing issue with the PA board where he wants to take the PE exam. Council advised this matter is closed.

NCEES

- DAPE is co-hosting the 2017 NE/Southern joint zone meeting in the Virgin Islands. Council members expressing interest in attending include: Lennon, McAllister, C. Balascio, Ludman, Barbato, W. Balascio, R. Wheatley, J. Tracey and DAG Hickey.

Old Business -- None

New Business

- Committee Distinguished Service Award – LEE member Keith Rudy is being considered.
- President Barbato has issued charges for each of the committees.
- Engineers' Week banquet is being held at Pencader Executive Center the third week in February.

Next meeting is scheduled on **Wednesday, February 8, 2017**, in the DAPE offices.

Meeting adjourned at 5:36 p.m.

/pa