

STATE OF DELAWARE



**DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS  
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July 18, 2012

**MINUTES – COUNCIL MEETING, July 11, 2012**

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday, July 11, 2012, in the offices of DAPE, New Castle, Delaware.

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

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

Council Members absent:	W. Balascio, P.E.	-	excused
	D. Clark, P.E.	-	not excused

Staff present: P. Abshagen

DAG: Catherine (Terry) Hickey, Esq.

Guests: Robert MacIntosh, P.E., Paul Cottrell, Esq.

The Roll call was taken and a quorum was declared.

**Open Forum**

**Minutes of the June 13, 2012 Council Meeting**

Council reviewed the Minutes of the June 13, 2012 Council meeting. Motion by Newton, seconded by Kooker, Council approve the Minutes of the June 13, 2012 Council meeting as submitted. Approved. (Council member Medlarz abstained)

**D.A.G. Report**

- Case 10/004 -- Hearing Committee's report on its findings of Case 10/004 A, B & C was distributed to Council previously to permit sufficient time to review. Two typos were pointed out to DAG Hickey who has made the corrections.

DAG Hickey inquired as to whether Council had any questions on the allegations, findings or conclusion. She also reminded Council of the law on the process for action on the Decision. In addition to the Hearing Panel members that needed to recuse themselves, LEE Committee members Crouch, Kooker & McAllister were recused. As was Council member Lester who had a conflict.

After a review of the Decision and Order of the Hearing Committee, Motion by Robertson, seconded by Newton, Council approve the written Decision and Order of the Hearing Committee in Case 10/004-A,B, C based on the decision which is not contrary to a specific state or federal law or regulation, is supported by substantial evidence, and is not arbitrary or capricious. APPROVED: Barbato, Leitsch, Newton, Gharebaghi, Robertson and Shine. Motion carried.

*(3:20 p.m. MacIntosh and Cottrell excused)*

President McAllister stated this case reminds us we are here to protect the public.

- University Consulting Engineers (UCE) – Superior Court has affirmed Council's decision on 6/27/12. This decision may be appealed in Supreme Court within next 30 days. This is an excellent decision that addresses use of the term "engineers", unlicensed practice and services for the general public. DAG Hickey will confer with DAG's Jamison and Kerber and President McAllister on the next step.
- Hearing Procedure Guidelines -- DAG Hickey provided draft III for Council's comments. Item #7 will include: "Decisions of the Hearing Committee must be solely based on the evidence presented at the hearing." Item #13 will remove "personal service" and the "date of decision" will be checked in the APA Act.

Motion by Robertson, seconded by Tracey, Council adopt the Hearing Procedures Guidelines. Approved unanimously.

## **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**

Chair Medlarz reported on the income/expense activity for fiscal year 2012/2013. Income actuals are at 59% of projections; expenses at 20% of projections after two months of this fiscal year. Medlarz pointed out that category 419 (Internet Service Fees), representing fees for the electronic renewal of licenses is at 48% of projections. Categories 415 and 250 have exceeded projections. Report will be recommended for approval subject to audit.

Finance Committee to convene a meeting to discuss income investments.

### **Employee Benefits & Compensation**

Job descriptions for the 3 full-time employees are still outstanding.

**Law Enforcement/Ethics Committee** -- No report. Committee did not meet this month.

### **Examining Committee**

Chair Lester presented the report of the Examining Committee's meeting of June 27, 2012. Ninety-three (93) individual applications for licensure were reviewed and confidential recommendations made for Council action consisting of **25** applications for **comity**; **50** applications for licensure with the successful passage of the April, 2012 PE examination; and **18** applications for **examination**. The Committee also reviewed **11** applications for **Certificate of Authorization**; **1** request for **Reinstatement**; and **1** application for Temporary Permit. All recommendations are shown on Exhibits A1-A4 of the report.

Motion by Lester, seconded by Robertson, Council approve the Committee's recommendations as shown on Exhibits A1 – A4 of the committee's report. Approved unanimously.

The Examining Committee will need to discuss computer-based testing (CBT), as administrative procedures will need to be worked out and put into place. Procedures such as applicants directly applying to NCEES, or continue to apply with DAPE for approval; retake and reapplication policy for multiple attempts, etc.

**External Affairs Committee** -- No report.

**Facilities Committee** -- No report.

**Public Information** -- Summer issue of the newsletter due August-September.

### **Government Affairs/By-laws Committee**

Council member Tracey communicated to Steven Johns that DAPE would not take a position in the support of the surveying issue presented to Council at last month's meeting.

**Ad-Hoc/Policies & Procedures Manual** -- Draft just received. Flow charts and other attachments still needed.

**Ad-Hoc/CPC** -- Work in progress.

### **Nominating Committee**

President McAllister appointed Council member Lester as Chief Teller to tally ballots. Additional DAPE members to be recruited to assist.

### **NCEES**

- Annual meeting August 22-25, 2012, St. Louis, MO. Registration is open. (DAG Hickey will be a presenter in the Law Enforcement Forum.)

**Old Business** -- None

**New Business**

President McAllister announced that Council member Kooker is the proud father of a new son. Congratulations were shared with Kooker.

**Correspondence** -- None

*(4:40 p.m. Council member Robertson excused)*

At 4:40 p.m., Motion by Newton, seconded by Kooker, Council enter **Executive Session**. Approved unanimously.

At 4:50 p.m., Motion by Tracey, seconded by Crouch, Council return to **Open Session**. Approved unanimously.

Next meeting on **August 8, 2012**. Location to be determined.

Meeting adjourned at 4:50 p.m.

	<b><u>ACTION LIST:</u></b>	
<b>COMMITTEE:</b>	<b>ACTION:</b>	<b><u>STATUS:</u></b>
Finance	7-1: Comm. to meet to discuss income investments.	
Employee Benefits	4-2: Job descriptions and salary ranges for two staff positions	
Law Enforcement		
Examining	1-4: Comm. To review guidelines for reapplication (after 4X PE Fails) 7-2: Comm. to discuss CBT/admin. policies	
External Affairs	4-3: Plan for outreach workshops	
Facilities	12-3: Website Update	12/20/11: Ongoing
Public Information	3-1: Chair Gharebaghi to provide strategies for enhancing committee's work.	
Gov't Affairs		
Ad-Hoc/Policy Manual	3-2: Manual under review	6/13/12: Draft received
Ad-Hoc/CPC	1-6: Details of CPC program required	
DAG		