

STATE OF DELAWARE



**DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS
92 Read's Way, Suite 208, New Castle, DE 19720**

PHONE: 302-323-4588 FAX: 302-323-4590
E-mail: office@dape.org

July 28, 2014

MINUTES – COUNCIL MEETING, July 16, 2014

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday, July 16, 2014, at the offices of DAPE, New Castle, Delaware.

Vice-President Barbato convened the meeting at 3:02 p.m.

Council Members Present:	C. Balascio, P.E.	C. McAllister, P.E.
	W. Balascio, P.E.	F. Newton
	D. Barbato, P.E.	T. Thomson, P.E.
	K. Kooker, P.E.	J. Tracey, Esq.
	M. Lennon, P.E.	R. Wheatley

Council Members absent:	S. Gharebaghi, P.E.	-	excused
	R. Hayden, P.E.	-	excused
	M. Lester, P.E.	-	not excused
	H. Medlarz, P.E.	-	excused
	E. Retzlaff, P.E.	-	excused

Staff present: P. Abshagen

DAG present: Catherine (Terry) Hickey, Esq.

The Roll call was taken and a quorum was declared.

Open Forum -- Nothing to report.

Minutes of the June 11, 2014 Council Meeting

Council reviewed the Minutes of the June 11, 2014 Council meeting. Motion by McAllister, seconded by C. Balascio, Council approves the Minutes of the June 11, 2014 Council meeting as submitted. Approved.

D.A.G. Report

- **Johns' Hearing** – The decision of the Hearing Panel was distributed to Council for its review. DAG Hickey instructed Council it must either approve or reject the Order only if it is contrary to law, arbitrary or capricious. This proposal to deny is based on the 2003 Council revocation decision and the 2009 issue of unlicensed practice. The burden was on Mr. Johns to demonstrate he had sufficiently overcome those violations. He is currently licensed in 2-3 states.

Motion by W. Balascio, seconded by Tracey, Council approve the Decision and Proposed Order of the Disciplinary Hearing Committee in the matter of David F. Johns. Approved: C. Balascio, W. Balascio, M. Lennon, F. Newton, J. Tracey, and R. Wheatley.

- Scott Hearing – The State has concluded its case. A motion to dismiss had been filed indicating the state had not met its burden of proof. The Hearing Panel's determination will be provided in its written decision shortly.
- FOIA requirements -- DAG Hickey has drafted a FOIA policy for Council's review. This is based on the state's statute. Still in discussion with IT firm.
- Legislation – A housekeeping change is required in the original code in §2823 (d) to correct "not more than \$100 or more than \$1000" and the code revisers have agreed to correct this grammatical mistake. S.B. 214 (education clarification) passed in the House on 7/1/14.

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

Finances for 17% of this fiscal year reflect income has reached 60% of projections; and expenses 15%.

With the receipt of deferred income, our Financial Advisor will be requested to prepare a proposal for the investment of these monies.

Executive Director Abshagen reported that more than 1,000 PE's and 100 C/A's were delinquent as of 6/30/14.

Motion by Balascio, seconded by Lennon, Council approve the Finance Report pending audit. Approved unanimously.

Employee Benefits & Compensation -- No report.

Law Enforcement/Ethics Committee

Council reviewed the report of the Committee's July 2, 2014 meeting. Chair Kooker reported the Committee discussed:

- DNREC – designs for lift station/gravity on-site wastewater systems. Committee representative Thomson and External Affairs member Gharebaghi met with Jack Hayes, DNREC representative, to discuss Class "B" designs that need calculations vs. canned designs (those that are not site-specific). The consensus was to develop a Memorandum of Understanding (MOU) that will include DAPE on judgmental cases. DAPE to draft document.
- Committee recommending Council approve the closure of four (4) cases.
- Committee recommending Council issue 3 Administrative Orders; 1 Cease & Desist Order; and 1 Consent Order.

- Committee would like Council to consider funding two representatives to attend the law enforcement workshop at NCEES' Annual meeting in Seattle. Tom Kiefer and Ana Diaz have both expressed interest in attending.

Motion by McAllister, seconded by Lennon, Council approve entering into a Memorandum of Understanding (MOU) with DNREC on the Class "B" designs for lift station/gravity on-site wastewater systems. (9-AYE; 1-ABSTENTION – Wheatley) Motion carries.

Motion by Kooker, seconded by Tracey, Council approve funding both LEE Committee members Kiefer and Diaz to attend the LEE sessions at the NCEES Annual meeting in Seattle, WA. Approved unanimously.

Motion by Kooker, seconded by C. Balascio, Council approve issuing a Cease & Desist Order in Case 13/099. Approved unanimously.

Motion by Kooker, seconded by Tracey, Council approve issuing a Consent Order in Case 14/078. Approved unanimously.

Motion by Kooker, seconded by Newton, Council approve issuing an Administrative Order in Case 14/009. Approved unanimously.

Motion by Kooker, seconded by McAllister, Council approve issuing an Administrative Order in Case 14/074. Approved unanimously.

Motion by Kooker, seconded by C. Balascio, Council approve issuing an Administrative Order in Case 14/079. Approved unanimously.

Motion by Kooker, seconded by McAllister, Council approve the closure of the four (4) cases listed on Exhibit A of the Committee's report dated July 11, 2014. Approved unanimously.

Examining Committee

Council reviewed the report of the Examining Committee's meeting of June 25, 2014. Thirty-nine (39) individual applications for licensure were reviewed and confidential recommendations made for Council action consisting of **20** applications for **comity**; **1** application for licensure for an individual not currently licensed elsewhere; and **18** applications for examination. The Committee also reviewed **10** applications for **Certificate of Authorization**.

Motion by C. Balascio, seconded by Tracey, Council approve the Committee's recommendations as noted on Exhibits A1-A2 of the committee's report dated June 26, 2014. Approved unanimously.

External Affairs Committee

The Architects'/Engineers' Joint Advisory Committee (JAC) met June 18, 2014. Board of Architects has appointed Pat Ryan to continue to serve on the JAC, and Todd Breck, however, he was unable to make this meeting. Pat Ryan presented a building officials' handbook template for review and comment.

Facilities Committee -- No report.

Government Affairs/By-laws Committee

- S.B. 214 has passed the House on 7/1/14 and is awaiting the signature of the Governor.

Public Information

- Summer Newsletter is being drafted.

Ad-Hoc/Policies & Procedures Manual

Finance, LE/E and Examining Committees have provided submissions. These submissions to date have been prepared and distributed to Council.

Ad-Hoc/Green Building -- Council member McAllister advised DAPE is no longer a representative on this group as of 6/30/14.

Correspondence -- None

NCEES

- Annual meeting is scheduled for Seattle, WA, on August 20-23, 2014. Executive Director Abshagen distributed a summary of the Annual meeting motions to be discussed.

Old Business

- Governor's office has not responded yet to our recommendation to fill the Kent County appointed seat.

New Business

- **2014 Council Election** – Electronic balloting results: 23.8% (or 344 voters) of the voting membership participated. Results:
 - T. Thomson – Civil Engineering Seat - 324 votes
 - R. Ludman – Industry Seat - 320 votes
 - M. Lester – New Castle County Seat - 329 votes

Motion by C. Balascio, seconded by Lennon, Council ratify the results of the 2014 Council election. Approved unanimously.

Next meeting on August 13, 2014 in Sussex County.

Meeting adjourned at 3:55 p.m.

/pa