

STATE OF DELAWARE



DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS
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March 21, 2011

MINUTES – COUNCIL MEETING, March 9, 2011

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday, March 9, 2011 at the Buttery Restaurant, Lewes, Delaware.

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

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

Council Members absent:	D.P. Barbato, P.E.
	D.G. Clark, P.E.
	K.R. Kooker, P.E.
	G.F. Marcozzi, P.E.
	M. Siwek, P.E.

Staff present:	P. Abshagen
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DAG:	Allison Reardon, Esq.
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Roll call was taken and quorum declared.

Open Forum

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

Minutes of February 9, 2011 Council Meeting

Council reviewed the Minutes of the February 9, 2011 Council meeting. On page 2, DAG Report, final motion to authorize DAG to discuss with respective parties time limits for future hearings, Council member McAllister did not oppose this motion. Minutes should reflect it was Council member Tracey.

Motion by Newton, seconded by Robertson, Council approve the minutes of the February 9, 2011 Council meeting as amended. Approved unanimously.

DAG Report

❖ Case 10/002 – Letter of Reprimand:

(Council members Lester, Pawlowski & Tracey were excused for this discussion.)

Motion by Medlarz, seconded by Robertson, at 3:20 p.m. to go into **Executive Session** under Title 29 for the purpose of discussing pending or potential litigation. Approved.

Upon the conclusion of discussion, motion by Newton, seconded by Robertson, Council return to **Open Session** at 3:50 p.m. Approved.

(Council members Lester, Pawlowski and Tracey did not participate in Executive Session, but returned to the meeting to establish a quorum and abstained from the vote.)

Motion by McAllister, seconded by Newton, Council rescind the letter of reprimand in Case 10/002 and dismiss case 10/002 with prejudice and remove any letters from the licensee's file.

Council member Shine requested an explanation of "with prejudice". DAG Reardon advised it means the underlying allegations cannot be brought forth again in a complaint. Reardon also reminded Council it has the ultimate authority on the disposition of complaints.

Vote on the motion: AYE – 7; OPPOSED – 0; ABSTAIN - 3 (Lester, Pawlowski, Tracey). Motion carried.

❖ Email Protocol:

DAG Reardon reminded Council that emails are discoverable in litigation. As a public body, it would be inappropriate for Council members to have discussions via email on Council business.

❖ Sussex County Letter:

(Council member Robertson was excused for this discussion.)

Council members reviewed the draft letter to Sussex County Council, addressing Sussex County Code Section 52-18C, which is to come directly from both the Architecture and Engineering Boards. The Attorney General's office deemed it more appropriate to come from the respective boards. The AG's office will review any response from Sussex County.

Motion by Medlarz, seconded by Newton, Council approve the Sussex County letter draft. Approved unanimously.

(Council member Robertson returned to the 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 ten months of the fiscal year (83%) reflects income at 100% (includes deferred income monies) and expenses at 78% of projections.

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

Finance Committee to convene a meeting on March 15, 2011 to discuss the proposed budget for F/Y 2011-2012, new auditors, etc.

Employee Compensation & Benefits Committee -- No report.

Law Enforcement/Ethics Committee

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

Hearing Panel/Presentation -- Hearing Panel Chair V. Robertson offered to provide a brief presentation to the LE/E Committee to benefit future hearings. Presentation was postponed until the expiration of the appeal process for this last hearing case.

Case Closures -- The committee is recommending the closure of 2 cases as listed on Exhibit A of its report dated March 4, 2011.

Cease & Desist Order (Case 11/001) -- Council to be requested to approve issuing a Cease & Desist Order for alleged unlicensed practice.

Hearing Panel – University Consulting Engineers – Panelist Siwek needs to resign his appointment. Council member Medlarz volunteered to serve. His appointment to be approved by Council.

Motion by McAllister, seconded by Robertson, Council approve the closure of the two cases as listed on Exhibit A of the LE/E Committee report dated March 4, 2011. Approved unanimously.

Motion by Tracey, seconded by Crouch, Council approve issuing a Cease & Desist Order in Case 11/001, after reviewing the LE/E Committee's report and recommendation. Approved unanimously.

Examining Committee

Council reviewed the report of the Examining Committee's meeting of February 23, 2011. Twelve (12) individual applications for licensure were reviewed and confidential recommendations made for Council action consisting of **11** applications for **comity**; and **1** application for **examination**. The Committee also reviewed **6** applications for **Certificate of Authorization**; and **2** requests for Reinstatement of PE licenses.

Motion by Shine, seconded by Robertson, Council approve the committee's recommendations for licensure as shown on Exhibit A1 of the report dated February 25, 2011. Approved unanimously.

Subsequent to the meeting, an additional application (#17131) for comity licensure was reviewed and is recommended for approval. Motion by Shine, seconded by Newton, Council approve the application for comity licensure of applicant #17131. Approved unanimously.

External Affairs Committee

Joint Advisory Committee (JAC) met on February 24th. Council member Barbato attended the meeting as the replacement representative on the JAC to replace Council member McAllister. JAC discussed design/building scenarios.

Facilities, Services & Equipment -- No report

Public Information Committee

Winter newsletter has been published. Chair Siwek has had to resign his chairmanship of this committee. President Pawlowski requested interested Council members to contact him for chairmanship appointment.

Government Affairs/Bylaws Committee

Chair Tracey reported committee members Marcozzi, Newton, Robertson and himself met with DAPE lobbyist to discuss pending legislation. One legislative bill will cover the housekeeping issues; the second bill will address expert witness prohibition. The lobbyist does not foresee any problems with the housekeeping bill and will seek sponsorship. There are some concerns with the expert witness prohibition and a meeting will be scheduled with the trial lawyers to bridge some of the gaps. DAPE lobbyist would need to recuse themselves if DAPE pursues the expert witness legislation, as they represent both DAPE and the trial lawyers. Council will be provided an update after the meeting with the trial lawyers.

President Pawlowski advised that NCEES computer-based testing will necessitate law revisions to address written 16-hour exams, as stated in the current law.

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

Ad-Hoc/CPC

The issue of retirement status has re-surfaced and will need to be incorporated into any CPC proposal.

NCEES

Board President's Assembly/CBT -- President Pawlowski advised that at the NCEES Board President's Assembly, NCEES stated computer-based testing for the FE and FS exams will happen no later than 2014. Exam cost will be approximately \$270-\$300 (compared to \$125 currently). Additional details to be provided.

- ❖ New 16-hour Structural exam to be administered in April, 2011.
- ❖ ASCE demonstrated a CPC website to store PDH's. President Pawlowski will demonstrate at next month's Council meeting.

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.

CORRESPONDENCE -- None

OLD BUSINESS

New PE certificates presented at the Engineers' Week banquet.

NEW BUSINESS

- ❖ Council member Kooker has relocated his residence into New Castle County. The term of his Kent County seat expires in August, 2011. He is requesting to remain in the seat until the next election.

Motion by Medlarz, seconded by Tracey, Council approve Council member Kooker to serve in his Kent County Council seat for the balance of his term. Approved unanimously.

- ❖ Hearing Panelist Replacement – Hearing panelist Siwek has had to resign and Council member Medlarz volunteered to serve.

Motion by Pawlowski, seconded by Robertson, Council approve the appointment of Council member Medlarz to the Hearing Panel for University Consulting Engineers. Approved (Medlarz abstained)

- ❖ Clarification of signature/seal on drawings – Council member Leitsch described a scenario where drawings are incomplete, not suitable for the Division of Facilities Management, but are needed in a 30-day turnaround. Owners, construction managers, and architects are unable to wait 30 days. They are tasked with submission of documents that are incomplete for bidding. The approval of signed incomplete drawings expose the engineer and the firm to liability, however, they are being required by the state.

This issue will be referred to the External Affairs Committee for discussion with the Division of Facilities Management.

There being no further business to come before Council, the meeting was adjourned at 5:00 p.m.

Respectfully submitted,

Hans M. Medlarz, P.E., Secretary

/pa

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