

## STATE OF DELAWARE



### DELAWARE ASSOCIATION OF PROFESSIONAL ENGINEERS

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August 28, 2024

### **MINUTES – August 21, 2024 COUNCIL MEETING**

A meeting of the Council of the Delaware Association of Professional Engineers was held on Wednesday August 21, 2024 in hybrid format (at DAPE office, New Castle, DE and via Zoom).

The Roll call was taken and a quorum was declared.

Council Members Present:	D. Barbato, P.E.	M. Clendaniel, P.E.
	V. Fazio, P.E.	J. Hastings, P.E.
	J. Jakubowski, P.E.	J. Kalmbacher, P.E.
	J. Puddicombe, P.E.	D. Reinhold, P.E.
	M. Smith, P.E.	K. Tadler, P.E.
	T. Thomson, P.E.	

Council Members Absent:	W. Gamgort, Esq.	C. Lingenfelder, Esq.
	R. Smith, Esq.	

DAG present: E. Kelly, Esq.

Staff present: J. Wootten

Additional Attendees: M. Davis, S. Bonvetti, J. Tarburton, D. Calloway, K. Maxson,  
P. Canzano, C. McAllister, C. Balascio, A. Diaz, M. Lennon.

Meeting was called to order at 3:02 PM.

#### **Old Business**

- The 2024 Council election ended July 15. Results:
  - K. Tadler, Mechanical Engineering: 413 yes votes, 37 abstained
  - D. Calloway, Sussex County (419 yes votes, 28 abstained)
  - D. Reinhold, Education (420 yes votes, 26 abstained)
- HB369 (Successor Engineer amendment) passed and is awaiting the Governor's signature.

#### **Discussion regarding DAPE Lease agreement and State requirements**

As requested by Council at the June meeting, DAG Kelly invited representatives from OMB to attend the meeting, to discuss the office lease and state requirements for DAPE. Stacey Bonvetti (Deputy State Solicitor at the Department of Justice) and John Tarburton (DAG at the Department of Justice representing the Facilities Management Department of OMB) explained their opinion that OMB should be listed on the lease renewal agreement and that DAPE is a state agency. In addition to DAG Kelly's May 6, 2024 memo to Council, they cited Delaware Code Title 29 § 10161 (a)(23). They answered questions related to insurance, liability/immunity of Council members, utilities fees, and the history of OMB.

#### **Open Forum**

After the OMB representatives left the meeting (3:42 PM), members of the public that were present were invited to address Council. Comments included:

- A suggestion to have a month-to-month lease in place if this matter is not settled by the August 31 deadline.
- DAPE's long history of self-regulation (including leasing space without OMB's involvement).
- Concern that the intent that DAPE act as a self-regulated board as stated in the Preamble to the original Title 24 Chapter 28 is not included in the Code itself.
- Confusion regarding differences between the meanings of "State Agency" and "Instrumentality of the State" (DAPE is referred to as an "Instrumentality of the State" in §2804).

### **Return to discussion regarding DAPE Lease agreement and State requirements**

*Motion by J. Kalmbacher, seconded by J. Hastings, to present the "Third Amendment to Lease Agreement" to Old Town Hall Associates, LLC (OTHA) as drafted by OMB on April 17, 2024, with revisions to remove "LLC" after Tenant's name in two places, in compliance with Delaware Code Title 29 § 10161 (a)(23) with respect to DAPE's lease.*

*Approved: Clendaniel, Fazio, Hastings, Jakubowski, Kalmbacher, Puddicombe, Reinhold, Tadler;  
Opposed: Thomson; Abstained: M. Smith*

### **Minutes of the July 10, 2024 Council Meetings**

Council reviewed the Minutes of the July 10, 2024 Council meeting.

*Motion by T. Thomson, seconded by M. Smith, to approve the minutes of the July 10, 2024. Approved unanimously.*

### **D.A.G. Report** – None.

### **Financial Reports**

V. Fazio reported that the finances for the 3 months (25%) of fiscal year ending April 30, 2025 reflect income has reached 37.9% of projections and expenses 24.1%. The COA renewal period opened in early August, so income has increased significantly since this report was generated.

*Motion by V. Fazio, seconded by M. Smith, Council accepts the Finance Report subject to audit.  
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.

#### **Finance/Employee Compensation & Benefits Committee/Facilities Committee**

V. Fazio reported that the committee met on July 29 and discussed the following:

- Proposals from potential auditors
- Wells Fargo Investment Advisors change to Trillium Wealth

*Motion by V. Fazio, seconded by K. Tadler, Council hire Gunnip & Company LLP to conduct the FY2024 audit. Approved unanimously.*

V. Fazio reported that the committee met on August 20. TJ Zak (DAPE's financial advisor) explained his change to Trillium Wealth/Fidelity. There was not a quorum at this meeting. The committee will reconvene after DAPE's new officers are appointed to make an official recommendation.

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

T. Thomson reported that the committee met on August 7 and discussed the following:

- Potential legislative amendments that the Government Affairs committee has suggested. The committee recommended that Council poll past hearing panel members to collect data on this topic.
- Committee will review charges next month.
- All mandatory CPC audits have been completed (4 satisfactory/1 retired).

*Motion by T. Thomson, seconded by M. Smith, Council approve the closure of the 8 cases listed on Exhibit A of the Committee's report. Approved unanimously.*

*Motion by T. Thomson, seconded by K. Tadler, Council send notification to deny license to PE application related to File 24-074 as discussed in executive session. Approved unanimously.*

*Motion by T. Thomson, seconded by M. Smith, Council approve dismissal of complaints related to files 24-083 and 24-084 as discussed in executive session. Approved unanimously.*

*Motion by T. Thomson, seconded by K. Tadler, Council approve Consent Order and Cease & Desist Order (with amendments proposed by respondent) related to File 24-009. Approved unanimously.*

*Motion by T. Thomson, seconded by K. Tadler, Council dismiss complaint after hearing facts of preliminary investigation presented during executive session. Approved unanimously.*

*Motion by D. Reinhold, seconded by J. Hastings, Council dismiss complaint related to File 24-008 as discussed in executive session. Approved: Clendaniel, Fazio, Hastings, Jakubowski, Kalmbacher, Puddicombe, Reinhold, M. Smith, Tadler; Recused: Thomson*

*Motion by D. Reinhold, seconded by J. Hastings, Council direct DAG Lydia-Moore to draft a consent order to include a letter of reprimand and \$100 fine related to File 24-007 as discussed in executive session. Approved: Clendaniel, Fazio, Hastings, Jakubowski, Kalmbacher, Puddicombe, Reinhold, M. Smith, Tadler; Recused: Thomson*

### **Examining Committee**

M. Smith reported that the Committee met on July 31, 2024 and discussed the following:

- Committee charges #10 & #12

All recommendations for licensure or approval to take the P&PE exam are shown on Exhibits A1 and A2 which are now ready for Council action. The recommendations are summarized below:

<b>Application Type</b>	<b>Total applications</b>	<b>Recommendation</b>	<b>Exhibit Reference</b>
Comity	11	License	A1
Comity	1	Refer to LEE	B
Exam	4	Approval to take P&PE	A1
Exam	2	Backlog	B
Initial	3	License	A1
New (Prev. DE PE)	2	License	
Exam (passed PE)	7	License	A2
Total Individual applications reviewed	30		

*Motion by M. Smith, seconded by T. Thomson, Council approves the Committee's recommendations for applications for licensure as noted on Exhibits A1 and A2 of the committee's report as amended just prior to the Council meeting. Approved unanimously.*

Committee recommendations for firm licensure are noted on Exhibit A3. The recommendations are summarized below:

<b>Application Type</b>	<b>Total applications</b>	<b>Recommendation</b>	<b>Exhibit Reference</b>
Certificate of Authorization	10	License	A3
Certificate of Authorization Reinstatement	1	License	A3

*Motion by M. Smith, seconded by T. Thomson, Council approves the Committee's recommendations for Certificates of Authorization as noted on Exhibit A3 of the committee's report. Approved unanimously.*

The backlog of applications (which the Committee has reviewed but are not ready for Council action) is shown on Exhibit B.

Additional Committee Recommendations:

<b>Application Type</b>	<b>Total applications</b>	<b>Recommendation</b>	<b>Exhibit Reference</b>
Model Law Engineer Comity License	33	License	D
Engineer Intern Certification/Decoupling	2	Approve	C

**External Affairs Committee** – No Report

**Public Information Committee** – No Report

**Government Affairs/By-Laws Committee** – No Report

**Nominating Committee** – No Report

**Correspondence** – None.

## **NCEES**

The Annual Meeting was held in Chicago, IL August 14-17. Registered delegates: M. Clendaniel, C. Lingenfelder, J. Puddicombe, D. Reinhold, M. Smith, T. Thomson, K. Steimling, J. Wootten. Attendees will present a recap at the September Council meeting.

## **New Business**

The Committee plans to present the following slate of officers to the Council. Additional nominations are accepted from the floor at the September Council meeting, when officers are elected:

- President: V. Fazio
- Vice President: T. Thomson
- Secretary: K. Tadler
- Treasurer: J. Puddicombe

Additionally, DAPE is trying to identify someone to fill the Industry Seat. When a Council seat is vacant, the Council President appoints an individual to complete the current term (through August 31, 2025). This seat will be on the ballot again next year, to complete the term through 8/31/2026, and again in 2026 for a full 4-year term.

## **Upcoming Meetings:**

- October 9 Volunteer Appreciation Event.

## **Next Council Meeting**

September 11, 2024 Hybrid format (Zoom or DAPE).

Meeting adjourned at 5:16 PM.