

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF CRANE OPERATORS
VIA VIDEOCONFERENCE**

TIME: 2:00 P.M.

PENNSYLVANIA DEPARTMENT OF STATE

July 29, 2021

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

State Board of Crane Operators
July 29, 2021

BOARD MEMBERS:

K. Kalonji Johnson, Commissioner, Bureau of
Professional and Occupational Affairs
Andrew S. Goulet, Professional Member - Absent
F. Allan "Buddy" Mauger Jr., Public Member
Daniel J. Mitchell, Professional Member
Brian M. Schmoyer, Professional Member

BUREAU PERSONNEL:

Dean F. Picarella, Esquire, Senior Board Counsel
David N. Smith, Esquire, Board Prosecution Liaison
Amanda Li, Board Administrator
Andrew LaFratte, MPA, Executive Policy Specialist,
Department of State
Marc Farrell, Deputy Policy Director, Department of
State

ALSO PRESENT:

Graham Brent, Chief Executive Officer, National
Commission for the Certification of Crane Operators
Foundation
Jen Smeltz, Republican Executive Director, Senate
Consumer Protection & Professional Licensure
Committee

1 State Board of Crane Operators

2 July 29, 2021

3 ***

4 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
5 1 p.m. the Board entered into Executive Session with
6 Dean F. Picarella, Esquire, Senior Board Counsel, for
7 the purpose of conducting quasi-judicial deliberations
8 on a number of matters that are currently pending
9 before the Board and to receive the advice of counsel.
10 The Board returned to open session at 2 p.m.]

11 ***

12 Meeting Instructions

13 [Amanda Li, Board Administrator, provided instructions
14 to be followed during the virtual meeting.]

15 ***

16 [Dean F. Picarella, Esquire, Senior Board Counsel,
17 noted the meeting was being recorded, and those who
18 continued to participate were giving their consent to
19 be recorded.

20 Mr. Picarella also noted the Board met in
21 Executive Session prior to the Board meeting for the
22 purpose of conducting quasi-judicial deliberations and
23 to receive the advice of counsel.]

24 ***

25 The regularly scheduled meeting of the State

1 Board of Crane Operators was held on Thursday, July
2 29, 2021. Dean F. Picarella, Esquire, Senior Board
3 Counsel, called the meeting to order at 2 p.m.]

4 ***

5 Roll Call/Introductions

6 [A roll call of Board members was taken by Ms. Li.
7 She also provided the introduction of attendees.]

8 ***

9 [Dean F. Picarella, Esquire, Senior Board Counsel,
10 informed everyone that today was a special meeting and
11 would be abbreviated. He noted they had to properly
12 sunshine the current meeting after the date of the
13 original meeting was changed. He mentioned that there
14 would be a reduced agenda with a lot of the matters
15 from the original agenda moved to the next agenda.]

16 ***

17 MR. PICARELLA:

18 At this point, since we do not currently
19 have a Board chair, I would ask for any
20 nominations for Board chair?

21 MR. SCHMOYER:

22 I'll make a motion we nominate Buddy
23 Mauger for the chair.

24 COMMISSIONER JOHNSON:

25 Second.

1 MR. PICARELLA:

2 We have a motion and a second. Any
3 discussion? Before we take the vote, I
4 will ask Mr. Mauger if he would accept
5 the nomination.

6 MR. MAUGER:

7 Yes, sir, I'll accept the nomination.

8 MR. PICARELLA:

9 With that, I would ask for a roll call
10 vote as to the election of Mr. Mauger as
11 the Board chair.

12
13 Commissioner Johnson, aye; Mr. Buddy
14 Mauger, aye; Mr. Daniel Mitchell, aye;
15 Mr. Brian Schmoyer, aye.

16 MR. PICARELLA:

17 With that, I believe the election is
18 unanimous. Mr. Mauger, congratulations.

19 [The motion carried unanimously]

20 ***

21 MR. MAUGER ASSUMED THE CHAIR

22 ***

23 Report of Prosecutorial Division - No Report

24 ***

25 Report of Board Counsel - Regulations

1 [Dean F. Picarella, Esquire, Senior Board Counsel,
2 noted agenda items 3 and 4 were discussed during
3 Executive Session.

4 Mr. Picarella addressed 16A-7103 regarding the
5 schedule of civil penalties that was presented to the
6 Independent Regulatory Review Commission (IRRC) at
7 their June 17, 2021 meeting. He stated IRRC issued an
8 order on July 8, 2021, denying that regulation. He
9 noted the Board now has 40 days to resubmit it to
10 IRRC.

11 Mr. Picarella informed the Board that IRRC denied
12 the regulation for two reasons because certain
13 sections lacked clarity, and IRRC did not believe the
14 regulation, as presented, would adequately protect
15 public health, safety, and welfare.

16 Mr. Picarella addressed the clarity issue, where
17 IRRC believed that the sections dealing with operating
18 a crane without a license or employing a licensed
19 person to operate a crane should had been limited to
20 situations where there was no incident involving
21 bodily harm or significant property damage.

22 Mr. Picarella stated IRRC suggested a set dollar
23 amount on any incident involving property damage or
24 bodily harm and limit the use or application of the
25 citation only if that limit has not been reached. He

1 explained that in order to avoid setting a number that
2 may cause litigation issues, he amended those sections
3 to have the qualifying language added provided that no
4 bodily injury or property damage was involved that
5 applies to the two sections for operating unlicensed
6 or operating while lapsed and also the section
7 regarding employing a person who is not properly
8 licensed to operate a crane.

9 Mr. Picarella addressed IRRC's comments regarding
10 public health and safety, where IRRC questioned why
11 the Commissioner and the Board did not include a
12 violation of the Act and regulations that requires a
13 crane operator to maintain certification and/or submit
14 evidence of recertification during the biennial
15 licensing period in the schedule of civil penalties.
16 He noted IRRC believed that including the violation in
17 the schedule of civil penalties is in the best
18 interest of public health and safety.

19 Mr. Picarella noted he amended the annex to
20 include citation authority for a violation of the act
21 at section § 2400.502(b) and the regulations at 49 Pa.
22 Code § 6.32(a)(2) to read, "failing to maintain
23 certification or submit evidence or renewal
24 certification before the expiration date of the
25 certification."

1 Mr. Picarella noted he also set the penalty for a
2 first offense under the section at a \$1,000 fine and
3 any subsequent offenses would be subject to formal
4 prosecution in the schedule. He also made changes to
5 the preamble and Regulatory Analysis Form to reflect
6 those changes.]

7 MR. PICARELLA:

8 I believe the Board would entertain a
9 motion to adopt the changes to the
10 annex, preamble, and Regulatory Analysis
11 Form as presented and direct me to
12 promulgate the regulation as final
13 rulemaking.

14 Do I have such a motion?

15 CHAIR MAUGER:

16 I make a motion that we approve them as
17 read.

18 COMMISSIONER JOHNSON:

19 Second.

20 MR. PICARELLA:

21 We have a motion and a second. Roll
22 call vote.

23

24 Commissioner Johnson, aye; Mr. Mauger,
25 yea; Mr. Mitchell, aye; Mr. Schmoyer,

1 aye.

2 [The motion carried unanimously]

3 ***

4 Report of Commissioner

5 [K. Kalonji Johnson, Commissioner, Bureau of
6 Professional and Occupational Affairs, apprised Board
7 members that beginning October 1, 2021, the pre-COVID
8 physical presence requirement in the practice act
9 would take precedence and in-person meetings would
10 resume unless the general assembly decides to extend
11 those waivers or elects to incorporate some of the
12 protocols that were in place during COVID into the
13 existing statutes.

14 Commissioner Johnson stated individuals would be
15 participating virtually at the next meeting, and he
16 should have additional information at that time about
17 subsequent meetings.

18 Commissioner Johnson addressed physical travel
19 requests, noting physical travel is accepted up to the
20 pre-COVID limit of two members with the rest of the
21 Board having the option of attending virtually, which
22 he recommended for public health and safety. He
23 encouraged everyone to submit travel requests as soon
24 as possible so any concerns can be addressed at the
25 higher administrative level.]

1 ***

2 Applications

3 MR. PICARELLA:

4 At item 3, based upon the discussions in
5 Executive Session, I believe the Board
6 would entertain a motion to
7 provisionally deny the Application of
8 Jeffrey Alan Coyle and direct counsel to
9 send an appropriate letter.

10 Do I have such a motion?

11 CHAIR MAUGER:

12 I'll make a motion we deny his
13 application for licensing.

14 MR. SCHMOYER:

15 Second.

16 MR. PICARELLA:

17 We have a first and a second. Any
18 discussion? Roll call vote.

19

20 Commissioner Johnson, aye; Mr. Mauger,
21 aye; Mr. Mitchell, yes; Mr. Schmoyer,
22 yes.

23 [The motion carried unanimously]

24

25 MR. PICARELLA:

1 At item 4, based upon the discussions in
2 Executive Session, I believe the Board
3 would entertain a motion to approve the
4 Application of Thomas R. Hill Jr.

5 Do we have such a motion?

6 COMMISSIONER JOHNSON:

7 So moved.

8 CHAIR MAUGER:

9 I'll second.

10 MR. PICARELLA:

11 We have a first and a second. Is there
12 any discussion? Hearing none. Roll
13 Call vote.

14
15 Commissioner Johnson, aye; Mr. Mauger,
16 aye; Mr. Mitchell, aye; Mr. Schmoyer,
17 aye.

18 [The motion carried unanimously]

19 ***

20 Report of Board Administrator

21 [Amanda Li, Board Administrator, noted the next Board
22 meeting date is scheduled for September 22.]

23 ***

24 Adjournment

25 CHAIR MAUGER:

1 Anyone want to make a motion to adjourn
2 the Board meeting?

3 MR. SCHMOYER:

4 I'll make a motion to adjourn the Board
5 meeting.

6 COMMISSIONER JOHNSON:

7 Second.

8 MR. PICARELLA:

9 Under Robert's Rules of Order, I believe
10 all we need is a motion and a second.

11 At this point, I believe we could end
12 the meeting.

13 [The motion carried unanimously.]

14 ***

15 [There being no further business, the State Board of
16 Crane Operators Meeting adjourned at 2:21 p.m.]

17 ***

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Crane Operators meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Crane Operators meeting.



Kelly Gallick,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CRANE OPERATORS
REFERENCE INDEX

July 29, 2021

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

| TIME | AGENDA |
|------|-------------------------------|
| 1:00 | Executive Session |
| 2:00 | Return to Open Session |
| 2:00 | Official Call to Order |
| 2:01 | Roll Call/Introductions |
| 2:06 | Report of Board Counsel |
| 2:16 | Report of Commissioner |
| 2:19 | Applications |
| 2:20 | Report of Board Administrator |
| 2:21 | Adjournment |