

MINUTES
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING
12100 Park 35 Circle, Bldg. A, Suite 173
Austin, Texas
June 8, 2012, 9:00 a.m.

Call to Order

The Board meeting was called to order at 9:05 AM by Chairman Greg Smyth. Present were Jon Hodde, Vice-Chair, Board members Bill O'Hara, Paul Kwan, James Childress, Robert Price and Mary Chruszczak., Executive Director Marcelino A. Estrada, Board Investigator Garey Gilley, and Assistant Attorney General Nancy Fuller. Absent were Board members Nedra Foster and Jerry Garcia.

The Chair asked all persons present to introduce themselves. Forty-two members and associates of the Texas land surveying profession were in attendance. Seminar

1. Approval of the March 9, 2012 and April 26, 2012 Minutes

The Chair presented to the Board the minutes of the March 9, 2012 and April 26, 2012 meetings of the Board for approval, whereupon motion duly made, seconded and unanimously adopted, the minutes were approved as presented.

2. Director's Report

a. Introduction of new staff member

The Director introduced Mary Jane Richter, Administrative Assistant for TBPLS who began employment with the Board on June 1, 2012.

b. Budget report

An Expense Statement was provided to the Board detailing agency expenditures to date. A balance of \$127,627 remains for the current fiscal year ending on August 31, 2012.

c. Review of statutes in preparation for online testing

Mr. Estrada brought to the Board's attention the fact that examinations for the national test will be conducted electronically beginning January 2014. The Board may wish to review its Act in case an amendment needs to be submitted to the Legislature in the upcoming session.

d. Customer Satisfaction Survey results

A summary of the 2012 Customer Satisfaction Survey asking participants to comment on the following categories: Facilities Exam, Facilities Board Office, Staff, Communications, Internet Site, Complaints, Service to Customers and Printed Information. Most responses rated each category between 87% and 98% except for Printed Information which was rated 72%. This information will be presented to the Legislative Budget Board.

2. Complaints – Garey Gilley, Investigator

Mr. Gilley is catching up on paperwork and had nothing to report except on Informal Settlement Conferences.

Two Informal Settlement Conferences were held on June 7. The first one was successful and an agreed order will be submitted for signature of the owner of the surveying company listed in the complaint. The second Informal Settlement Conference was unsuccessful. This complaint will be going to SOAH for revocation of license.

3. Committee Reports

a. Executive Committee – Greg Smyth, Chair

i. Mr. Smyth had no activity to report.

b. Rules Committee – Greg Smyth, Chair

Mr. Gilley presented the proposed rules to the Board and discussion ensued. To allow Mr. Gilley time to print a paper copy with incorporated suggestions from the discussion, the Chair suggested a 10-minute break.

To request ADA accommodations, contact Tony Estrada at 512-239-5263 at least 5 business days prior to the meeting.

The Chair called for a 10 minute break at 10:09 AM.

The Board meeting reconvened at 10:29 AM

- c. RPLS/SIT Examination Committee – Jon Hodde, Chair
 - i. Mr. Hodde reported that 27 RPLS passed the exam, 33 SITs passed fundamentals. The passage rate is on target. Board member Paul Kwan moved that the Board certify the individuals that passed the SIT exam. The motion was seconded and unanimously approved. Mr. Hodde moved that the Board certify the individuals that passed the RPLS exam. The motion was seconded and unanimously approved.
 - ii. Board member Bill O’Hara asked that the lists of new RPLS and SIT posted to the Board Web site include the city or county where the person resides.
- d. LSLs Examination Committee – Bill O’Hara, Chair
 - i. Mr. O’Hara reported he would like to create an extension of the LSLs committee for the purpose of reviewing information in the item bank. There are over 100 items listed and could be a three-year project. He would like to recruit from individuals around the state and plans to start next month.
 - ii. An LSLs exam was given in April. Of five examinees only one, Mike Hoover, past the exam. Mr. O’Hara presented a certificate to Mr. Hoover. The next exam will be in October. This concluded Mr. O’Hara’s report.
- e. Continuing Education Committee – Paul Kwan, Chair
 - i. Mr. Kwan referred the Board members to the list of courses in their working papers. He recommended approval of courses with the exception of Wild Mustang’s *You are the POINT OF BEGINNING*. Under individual courses, Mr. Kwan recommended approving only one hour of ethics offered in the McLaughlin Brunson 2012 Loss Prevention Risk Management course. Board member James Childress moved that Mr. Kwan’s recommendations be approved. The motion was seconded and unanimously approved.
- f. Oil Well Issues Committee – Jon Hodde, Chair
 - i. Mr. Hodde reported several lawsuits have arisen due to discrepancy in the position of the unit line, as many tracts in the southern part of the State are tied to original survey grants and surveyors have to re-establish those unit lines. Surveyors in this line of work should be cautious.
- g. Legislative Needs Committee – Bill O’Hara, Chair
 - i. Mr. O’Hara reported that he attended the TSPS Government Affairs meeting in May. TSPS is pursuing an additional level of certification in the form of a paraprofessional certificate. Mr. O’Hara also noted that there is going to be a statutory change needed to allow for computerized testing and should be pursued now with the upcoming legislative session.
 - ii. Mr. O’Hara reported that licensed state land surveyors experience a problem when they file records in the County Surveyor Records. Statutes require the field notes compiled by a State Surveyor performing an official survey be filed in the County Surveyor Records. In counties without a County Surveyor, the county clerk by statute, becomes the custodian of those records, but they are not required to file those records in the County Surveyor Records. Many county clerks do not know where the County Surveyor Records are. If the county does not have a County Surveyor and the County Clerk will not file the field notes, they can be filed in the official public record of the county, though it does not meet the letter of the law. Mr. O’Hara has asked the GLO pursue a statutory remedy.
 - iii. Concerning the resurveying of county lines, the law says the marker must be of wood or rock. Mr. O’Hara said he would like to revise the statute to allow metal posts that would meet the needs of the counties.
- h. Complaint Review Process Committee – Paul Kwan, Chair
 - i. Board member Jim Childress is working on this.
- i. Task Force on Registration of Photogrammetrists, Mappers and GIS Professional – Mary Chruszczak, Chair
 - i. Ms. Chruszczak reported that she is reviewing NCEES model laws in case state law need to be amended. Photogrammetrists and Mappers are recognized through their trade

association and are working with TSPS on this topic. GIS Professionals are opposed to this measure. Incorporating NCEES model laws into Board rules would be the first step towards regulating GIS by the Board.

j. Correspondence

i. Request by Sepehr Parnian for reinstatement of RPLS license

Mr. Estrada and Mr. Gilley presented Mr. Parnian's request for reinstatement. After discussion, Mr. Childress moved that Mr. Parnian's request be denied because the Act prohibits the Board from accommodating his request. Statute prohibits board from renewing. The motion was seconded and unanimously approved.

ii. Request by Michael G. Moran for Texas SIT certification through reciprocity (NV)

Mr. Gilley presented Mr. Moran's request for certification through reciprocity with Nevada. Based on section 661.41(f) of the Rules, and the fact that Mr. Moran's certification has lapsed, his request is denied and he is required to take the Texas exam.

6. New Business

a. Electronic Signatures

i. The Board Chair asked that Mr. Gilley and Mr. Estrada study this issue and develop language for a Board rule defining electronic signatures. This will clarify using a true electronic signature instead of scanning and pasting a signature onto a document.

b. Approval of the publication of proposed rule changes as recommended by the TSPS Rules Task Force

i. The Chair recognized Mr. Gilley so he could finish his report on the Rules.

ii. Mr. Price made a motion that the proposed rules submitted by Mr. Gilley be published. Mr. Childress seconded the motion. Mr. Price amended his motion to say "for public comment." Discussion ensued regarding the effective date of the proposed rules. It was moved and seconded that Jan 1, 2013 be the effective date. The motion carried unanimously. Mr. Gilley agreed to meet with joint meeting of Chapters to obtain comments on the rules. This completes the Rules Committee report.

c. Report from Chairman, TSPS Non-degreed Licensure Task Force

i. Jerry Goodson presented the Task Force recommendation recommending a paraprofessional surveyor category which would have the same number of continuing education requirements as surveyors and would provide quality control by overseeing the work of crews. Mr. O'Hara thought this might entice people to not stop at Surveyor in Training. Mr. Goodson felt this would offer a career path. TSPS would like TBPLS to appoint one or more members to work with them on this issue.

ii. Mr. Goodson also reported that the Task Force believes the Board needs to obtain legislative authority to stop unlicensed surveyors from surveying. Ms. Fuller said irreparable harm would have to be demonstrated in order for a court to issue a temporary restraining order or an injunction against an unlicensed individual performing surveying. The Board's Act would have to allow emergency action.

d. Presentation by Joseph Gore requesting reinstatement of RPLS

i. Mr. Gore presented his case for reinstatement to the Board. The Chair requested a statutory interpretation from Nancy Fuller, Attorney General's representative to the Board. Ms. Fuller determined that the Board is bound by statute (Tex. Occ. Code, section 1071.303(d) with no discretionary power in the matter. Mr. Gore's request is denied.

e. Request by Marion Ruth Bolton for reinstatement

f. Request by Raynold D. Vincent to Return to Active Status

g. Request by Brian K. Terrell to Return to Active Status

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1. All three applicants are found in compliance with section 661.52 of the Board Rules. A motion to reinstate all three was made by Board member Mary Churszczak. The motion was seconded and carried.
- h. QAQC Committee Appointments
 - i. Casey Mann
 - ii. Roberto Tamez
 1. The Board Chair called for a motion to appoint Mr. Mann and Mr. Tamez to the QAQC Committee. Board member Jon Hodde moved to appoint Mr. Mann and Mr. Tamez. The motion was seconded and carried.
 - i. Nomination of Marcelino A. Estrada as Associate Member of NCEES and authorization to attend any appropriate meetings as needed, with approval of Board Chair
 1. Board member Jim Childress moved that the Board issue a resolution that Mr. Estrada be named Associate Member of NCEES. The motion was seconded and carried.
 - j. Course Applications---*This agenda item was in error and did not require Board action.*
7. Future Agenda Items – Select next meeting date
Board members discussed the publication of the proposed board rules and time-frame for the public hearing before the next Board meeting. Based on publication in the Texas Register by June 18, and allowing 30-days for public comment, the next Board meeting was scheduled for August 9 and 10.
8. Comments from the Public and Adjournment
 - a. Curtis Strong, Pres-elect TSPS, informed the Board that a new Executive Director had been hired. The TSPS strategic planning will take place on August 17 and 18, with their board meeting following on August 18. Speaker Joe Gagon will be speaking on legislative communication issues. Everyone is invited all to attend.
 - b. Darrel Zurcher, regarding electronic signatures, encourages the Board to work with the Professional Engineering Board because they have language written in their rules and he suggests the Board research the technology available.
 - c. A public attendee inquired as to how many applicants took the SIT exam. Mr. Hodde confirmed that there were 56 examinees. Mr. Kwan pointed out that the figure was down from 80. Mr. Hodde commented that this is historically true for all jurisdictions across the United States.
 - d. A public member asked if the statistics regarding how many took/past the SIT/RPLS analytical, legal exams? Ms. Churszczak stated that that information is not normally published on the Web site. Mr. Kwan proposed that it might be included in the minutes. Mr. Hodde agreed that it could appear in the minutes under Board business.
 - i. 33 passed SIT
 - ii. 27 passed RPLS
 - iii. 17 passed legal portion of exam
 - iv. 26 passed analytical portion of exam
 - v. 2 passed the reciprocal exam
 - e. Board member Bill O’Hara commented that he was reminded that our roster is not very helpful. A surveyor who works for the City of Georgetown, whose name may be found in the Minutes of a previous meeting, had offered to assist in creating a more user-friendly roster. Mr. O’Hara asked that the Executive Director determine what needs to be done to create a better roster.
 - f. Mr. Gilley asked if the proposed rules could be posted on the website as he thought it would be a good idea.
9. Meeting adjourned at 12:36 PM