

MINUTES
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING
12100 Park 35 Circle, Bldg. E, Rm. 201
Austin, Texas
July 22, 2016, 9:00 a.m.

Call to Order, Establish Quorum, Introductions, and Comments from the Public

The meeting was called to order at 9:00 a.m.

Present: Jon Hodde, Chair, Board members Bill Merten, Jerry Garcia, Mary Chruszczak, Paul Kwan, Drew Paxton, Davey Edwards and Mark Neugebauer; Executive Director Marcelino A. Estrada, Assistant Attorney General John Langley and Board staff.

Absent: Jim Cheatham.

The Chair invited the public to introduce themselves and offer comments. There were no general comments.

1. Approval of the May 13, 2016 Minutes

The Chair called for the adoption of the minutes of May 13, 2016. Mr. Garcia moved that the minutes be adopted. The motion was seconded and adopted.

2. Director's Report

a. Legislative Appropriations Request

Mr. Estrada reported to the members that he was going to report on the Legislative Appropriations Request (LAR). However, the Legislative Budget Board has not issued the final budget figure so staff has not begun working on the LAR. Mr. Estrada noted that there is going to be a required 4% cut and in addition the Board is estimating lapsing approximately \$50,000. This concluded Mr. Estrada's report.

3. Complaints

a. Closed or Dismissed Complaints

Board Investigator Mike McMinn reported that a Complaint Review Panel, including Mr. Kwan and Mr. Paxton, reviewed the following eight complaints for dismissal:

Complaint 12-45: Complaint alleged that subject surveyor prepared a survey and failed to show a 7.5 foot wide utility easement. The error was not found until a title company review of the survey for a second closing on a subsequent sale. As a result of the surveyor's phone response to the original Investigator's Report and a phone conversation with former investigator Gary Gilley, the number of unresolved violations was reduced to two. The subject surveyor's license is on inactive status and he is not likely to request reinstatement to active status. The executive director recommended to the Panel that the current complaint be dismissed with conditions noted to the surveyor's file should he request reactivation at a later date. After reviewing the facts, the review panel concurred with the recommendation that Complaint 12-45 be dismissed.

Complaint 14-04: Complaint alleged that the subject surveyor failed to provide a requested survey of the complainant's property. The subject surveyor was hired to perform

a survey of a 10.55 acre tract. The survey was completed in a timely manner and submitted to the title company. However, the subject surveyor promised the complainant several times that he would deliver signed and sealed surveys for his records. He did eventually deliver the survey to the complainant along with a check for reimbursement of about one-half of the original survey fee.

The board investigator found that the delay in providing the survey to the client is a contractual issue in which the Board does not become involved. The board investigator found no violations of Board Rules and the Executive Director recommended to the Panel that the complaint be dismissed. After reviewing the facts, the review panel concurred with the recommendation that Complaint 14-04 be dismissed.

Complaint 14-29: Complaint alleged that the subject surveyor trespassed on the subject property and did not properly identify monuments with caps that identify the surveyor or the company. The complaint also alleges that the surveyor was not a legitimate surveyor and that the surveyor erected a fence encroaching onto Lot 3. The subject surveyor was hired to survey Lot 5 adjoining the complainant's lot. The survey indicates that the complainant has a shed encroaching onto Lot 5.

The board investigator found that there is apparently ongoing tension between the surveyor's client and the complainant. The alleged trespassing took place as the field crew was looking for monuments of adjoining and other properties in the area. The monuments in question were found without caps and were left as found. The surveyor nor his field crew were involved with the erection of the fence. Trespassing does not fall under the purview of the Board and surveyors are not required to place identifying marks on found monuments. The board investigator found no violations of Board Rules and the Executive Director recommended to the Panel that the complaint be dismissed. After reviewing the facts, the review panel concurred with the recommendation that Complaint 14-29 be dismissed.

Complaint 15-32: Complaint alleged that the subject surveyor failed to finish the survey and another surveyor had to be hired. The subject surveyor was hired to complete a boundary and topographic survey on a 1.98 acre tract of land. The boundary survey was completed, but the topographic survey was not and another surveyor was hired to complete the survey. During this period of time, the subject surveyor had been assisting his mother who had cancer. She passed away about two months after the survey was completed by the other surveyor. The subject surveyor did reimburse the complainant as requested.

The board investigator found that the delay in providing the survey to the client is a contractual issue in which the Board does not become involved. In this instance, the client did receive reimbursement for the work he paid for. The board investigator found no violations of Board Rules and the Executive Director recommended to the Panel that the complaint be dismissed. After reviewing the facts, the review panel concurred with the recommendation that Complaint 15-32 be dismissed.

Complaint 16-07: Complaint alleged that the subject surveyor failed to provide a requested survey of the complainant's property. The subject surveyor was hired to perform a survey of a 16.59 acre tract. The surveyor cashed the check and provided an email copy of the survey. However, the subject surveyor promised the complainant several times that

he would mail 5 copies of the signed and sealed survey for his records. He did eventually deliver the surveys to the complainant.

The board investigator found that the delay in providing the survey to the client is a contractual issue in which the Board does not become involved. The board investigator found no violations of Board Rules and the Executive Director recommended to the Panel that the complaint be dismissed. After reviewing the facts, the review panel concurred with the recommendation that Complaint 16- 07 be dismissed.

Complaint 16-22: Complaint alleged that the subject surveyor failed to provide the survey that the complainant had paid for. After the complaint was filed, the surveyor completed the survey and delivered it to the complainant. The complainant has since advised the board that he has received the survey and wanted to withdraw the complaint.

The board investigator found that the delay in providing the survey to the client is a contractual issue in which the Board does not become involved. The board investigator found no violations of Board Rules and the Executive Director recommended to the Panel that the complaint be dismissed. After reviewing the facts, the review panel concurred with the recommendation that Complaint 16- 22 be dismissed.

Complaint 16-24: Complaint alleged that the subject surveyor failed to meet agreed deadlines for the survey. The delays in delivering the survey caused the closing to be rescheduled.

The board investigator found that the delay in providing the survey to the client is a contractual issue in which the Board does not become involved. The board investigator found no violations of Board Rules and the Executive Director recommended to the Panel that the complaint be dismissed. After reviewing the facts, the review panel concurred with the recommendation that Complaint 16- 24 be dismissed.

Complaint 16-26: Complaint alleged that the subject surveyor failed to return to the property, a 20.84 acre tract of land, and re-mark the corners in order for the complainant to see where the property corners are. The complainant was having issues with a neighbor and wanted to build a fence. In his response, the subject surveyor indicated that the request to re-mark the property came about 10 months after the date of the survey and the closing and advised the complainant that there would be an hourly rate charge to remark the corners.

The board investigator found that this was a contractual issue in which the Board does not become involved. The board investigator found no violations of Board Rules and the Executive Director recommended to the Panel that the complaint be dismissed. After reviewing the facts, the review panel concurred with the recommendation that Complaint 16-26 be dismissed.

Board Investigator Larry Billingsley asked the Board if he could take a moment to educate the attendees because they are attending to earn continuing education and learn what the Board is doing. Mr. Billingsley noted that there was a theme common to the complaints: each had to do with a timeline that the surveyor had promised to complete his work and did not produce it; and a lack of communication between the surveyor and the complainant. He said these issues could have been avoided if the surveyor had kept the lines of communication open. Mr. Billingsley then cited Board Rule 663.5, *Representation*. He then went through a timeline of events to demonstrate how communication could have prevented the situation from going a year and a half with no resolution for the client.

b. Request for Reinvestigation

This item was tabled.

c. Request to Deem Frivolous

Complaint 13-26: Mr. Estrada informed the Board that a request had been received to deem Complaint 13-26 frivolous. The complaint had previously been dismissed and the letter from the surveyor was included in the Board member's workbook. Mr. McMinn reviewed some details of the complaint and noted that a request had been made to reinvestigate the complaint. The Board at that time had denied the reinvestigation and dismissed the complaint.

Mr. Estrada explained that the complaint had been received and investigated. A recommendation was made to dismiss and information was sent to the complainant. The complainant asked for a reinvestigation and Mr. Estrada asked Mr. McMinn to conduct a reinvestigation. Before this information was reported, the former Assistant Attorney General informed Mr. Estrada that he had usurped the Board's power by authorizing the reinvestigation and recommended that the request for reinvestigation be brought to the Board. At an earlier Board meeting, the request was presented and the Board denied the request for reinvestigation. The surveyor is now asking that the complaint be deemed frivolous.

Mr. Kwan asked if the public was harmed. The original complaint was that the surveyor had shorted the complainant five acres. Mr. McMinn noted that there was an issue with one of the boundary lines based on a subsequent survey.

Mr. Edwards stated he had two concerns, one that we had the "cart before the horse" and the second being the concerns the surveyor raises with the investigations. Ms. Chruszczak agreed and questioned if any information provided is valid that can be discussed because the proper procedure was sidetracked.

Mr. Langley said that since the licensee's name had remained confidential, that was important. If there was another motion to reopen or not, that would be up to the Executive Director or the Chair.

Mr. Hodde reiterated that it would be alright to have an open discussion as long as it was anonymous to the individual. Mr. Langley agreed.

Mr. Edwards asked if the request to deem frivolous could be tabled. Mr. Langley said there was no motion one way or the other on action to be taken. If the Board was inclined to reopen the investigation, the Board could move to deny to deem frivolous and then move to reopen the investigation.

Mr. Edwards then asked if the reinvestigation would be on the original complaint. Mr. Langley said that most agencies are complaint driven. Based on his experience, once a complaint is made, if the beginning of the investigation on that complaint leads to additional information, that investigation can be expanded to include additional allegations.

Mr. Estrada explained that the previous investigator had looked strictly at the complainant's concern. He went on to say that he had instructed the current investigators,

when reviewing complaints where a copy of a survey had been submitted, they were to confirm that the survey met the Board's minimum standards. Mr. Edwards asked if the Board was getting into the surveying business. Mr. Estrada responded that the investigators were solely confirming that the survey met the minimum standards. In this particular instance, when Mr. Estrada authorized the reinvestigation, Mr. McMinn noted the survey was lacking information required by the rules.

Mr. Hodde said that a reinvestigation would open up the investigation to the original complaint plus any other items found during the investigation.

Mr. Merten stated that the Board had not acted on the request to deem frivolous. Mr. Hodde stated that if the Board wants to request a reinvestigation and no violations were found, the surveyor could again ask the complaint be deemed frivolous. Mr. Merten then moved to deny the request to deem complaint number 13-26 frivolous. Mr. Kwan seconded the motion. During discussion, Mr. Kwan said we should move one step at a time. The motion was voted on and approved.

Mr. Edwards moved that a new complaint be opened to the findings that came from the first complaint that was discovered in the review. Mr. Kwan seconded the motion. Mr. Garcia asked if it was correct that the Board did not have the pertinent information regarding the complaint. Mr. Hodde stated limited information was reviewed based on the specific complaint. Mr. Garcia then noted the three sets of numbers mentioned and asked for clarification of how those numbers pertained to the acreage. He also asked if the original surveyor had an original plat they worked from and the new surveyor had to follow as closely as possible but they didn't. This information was just brought to the Board's attention. Ms. Chruszczak asked if the motion, based on evidence obtained in a reinvestigation that was not supposed to have been done, would allow the Board to say we are going to reinvestigate. Mr. Garcia said his understanding was that the original investigator focused on the specific complaint. Because Mr. Estrada gave the investigators instruction to look for further issues, this information was brought to the Board. Mr. Hodde informed the members that counsel had requested this matter be discussed in Executive Session. Mr. Edward's moved to withdraw his motion to open a new complaint. The motion was seconded. The motion to withdraw carried.

Complaint 16-25: Mr. Estrada directed the Board members to a letter from the surveyor involved in complaint 16-25. Mr. Kwan asked if the complaint had been dismissed. Mr. Estrada confirmed. Mr. Kwan moved to grant the request. Ms. Chruszczak seconded. After a vote, the motion carried.

d. Informal Settlement Conferences / State Office of Administrative Hearings (SOAH)
i. 15-14

Mr. Kwan reported on an informal settlement conference held regarding this complaint. The survey was in a rural subdivision in Montgomery County. There was a boundary dispute between two parties, the surveyor worked for one of the parties. The main issue was whether the private roadway was platted, dedicated or not. The surveyor based his work on the original subdivision plat done in the early 1900s. He did not show any adjoining deed research. The east side is an unrecorded subdivision but he did not show any information. On the west side was an out tract and he did not do any research on this either. He constructed his boundary based on two monuments even though he informed the committee that he had discovered and used other corners but he had nothing to prove this.

He also did not define his bearing basis. The survey contained spelling errors as well. He was found to have violated 663.18(a) and (b), on Boundary Construction, when he failed to show deed references for the three adjacent tracts and he failed to research subject property; 663.17(b), on Monumentation, when he failed to identify the basis for his reconstruction of the boundaries and the location of four of the five monuments; 663.19(c) and (d), on Survey Drawing/Written/Description/Report, when he failed to show deed references for three adjacent tracts, failed to identify his bearing basis, failed to include his firm registration number on the survey, failed to identify monuments of record dignity and failed to properly research deeds necessary to complete survey. The committee recommends a reprimand, an administrative penalty of \$5,000, and successful completion of two Board offered courses on “The Act and rules” and “Court Cases” which total an additional 16 hours of continuing education in addition to the normal 12 hours. Mr. Kwan noted that the surveyor has signed the agreed order. Mr. Merten moved to approve the agreed order. The motion was seconded and approved, with Mr. Kwan and Mr. Paxton abstaining as they served on the Informal Settlement Conference committee. The surveyor involved in this complaint was David E. King, RPLS #4503.

ii. 16-17

Mr. Paxton reported on this complaint, which is two parts, one involving the surveyor and one involving an unregistered firm. The portion involving the surveyor resulted in four violations of Board rules involving unauthorized practice of the firm he was working with and the firm using his name as a principal although he was not a principal of the firm. The rules violated were rules 663.6(1) and (3), 663.10(6) and (8), 663.10(6) and (8). The committee recommends a reprimand and an administrative penalty in the amount of \$6,000 plus a license suspension. The administrative penalty and suspension are probated for two years. The surveyor shall also successfully complete an additional eight hours of continuing education on the Board’s Act and Rules. A cease and desist letter has been drafted for the owner of the unregistered firm. He is not a licensed surveyor and did not have one on staff. The owner was trying to open a marketing company to work with surveyors and tie them into realtors, home builders, construction companies by doing the marketing for those surveyors under a surveying firm name and contracting through them. He intends to open a surveying company once he finds a surveyor to hire full time. Mr. Garcia moved to accept the agreed order. The motion was seconded and approved with Mr. Paxton and Mr. Kwan, as members of the Informal Settlement Conference committee, abstaining. The surveyor involved in this complaint was David Apple, RPLS #5932 and the firm, Innovative Surveying in the Dallas-area.

Mr. Estrada directed the members to the text of cease and desist letter and asked the members for their approval. Mr. Garcia asked Mr. Langley for his opinion and Mr. Langley said that based on the statutes, the cease and desist letter was appropriate because the statutes addressed licensees. In this case, the firm’s owner is not a licensee. Members approved the text of the letter.

e. Office of the Attorney General

i. Grimes County statement regarding survey crews

Mr. Hodde reported that he had received a letter from a surveyor in Grimes County. The surveyor wrote that he had spoken with County Judge Lehman, the county attorney and several county commissioners and they all seem to agree that surveyors are not the target of the proposed permitting but crews working on the large projects coming through county specifically the high speed railroad and electric lines. He tried to meet with the individual that posted the proposed language on Face Book and but has been unable to do so. The

county had a rule in place for “geophysical survey” and struck “geophysical” and replaced it with “surveyor”. Mr. Hodde said he was aware of one other county that had a similar rule. Mr. Edwards said that he had been contacted by several surveyors saying that this was a hindrance on their company.

Mr. Langley said that he was unable to offer an informal advisory opinion. He noted that there were competing interests: the county and the land surveyors. He believes that there may be an informal avenue for working this issue out. In the alternative, the Board could request a formal Attorney General opinion.

Mr. Edwards asked if other counties began doing the same thing, would surveyors have to go to each county and have informal discussions. Mr. Langley said there was another party asking for an opinion on a similar issue but he could not comment further.

The Chair called for a break at 10:13 a.m.

The Chair reconvened the meeting at 10:37 a.m.

4. Committee Reports

a. Executive Committee –Jon Hodde, Chair

Mr. Hodde reported there was no action taken since the last meeting.

b. Rules Committee – Mary Chruszczak, Chair

i. Adoption of Proposed Rules

Ms. Chruszczak reported that she and Mr. Kwan reviewed the proposed rules and public comments. Some of the rules remained as published, others were changed based on comments received. The Chair suggested that each rule be adopted as Ms. Chruszczak read action taken by the Rules Committee. Rules 661.31(4), 661.55(g), 661.99, and 663.14 were recommended for adoption as proposed in the February 5, 2016 Texas Register. Rule 661.31(6) was amended based on comments received and recommended for adoption. Proposed rule 661.55(h) was not recommended for adoption. Proposed Rule 661.57(10) was not recommended for adoption. Proposed rule 663.11 was recommended for adoption after removing references to Class C misdemeanors and adding Class A or Class B misdemeanor instead. Proposed changes to Rule 663.19(e) were not recommended for adoption. The Board voted to approve the Rules Committee recommendations.

Proposed Rule 661.57(2) received extensive changes and the Board’s intent is for this rule to be republished for public comment.

This concluded Ms. Chruszczak’s report

ii. Digital Signatures/Seals – Bill Merten

Mr. Merten presented draft rule language pertaining to digital signatures. The suggestions are as follows:

RULE §661.31.Definitions

(12) Seal--An embossed, ~~or~~-stamped, or electronic design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice land surveying services to the public in the State of Texas and has legal consequence when applied.

RULE §663.18. Certification

- (a) The Registered Professional Land Surveyor shall personally apply his/her seal and signature to final documents released to the public representing professional land surveying as defined in the Act. The professional land surveyor shall maintain control and possession over his/her seal at all times.
- (b) An electronic seal and signature are permitted to be used in lieu of an original seal and signature when the following criteria, and all other requirements of the General Rules of Procedures and Practices are met:
1. It is a unique identification of the professional;
 2. It is verifiable;
 3. It is under the professional's direct control
- (a) (c) If the land surveyor certifies, or otherwise indicates, that his/her product or service meets a standard of practice in addition to that promulgated by the Texas Board of Professional Land Surveying, then the failure to so meet both standards may be considered by the Board, for disciplinary purposes, to be misleading the public.
- (b) (d) Preliminary documents released from a land surveyor's control shall identify the purpose of the document, the land surveyor of record and the land surveyor's registration number, and the release date. Such preliminary documents shall not be signed or sealed and shall bear the following statement in the signature space or upon the face of the document: "Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document". Preliminary documents released from the land surveyor's control which include this text in place of the land surveyor's signature need not comply with the other minimum standards promulgated in this chapter.
- (c) (e) A land surveyor shall certify only to factual information that the land surveyor has knowledge of or to information within his professional expertise as a land surveyor unless otherwise qualified.
- ~~(d)~~ (f) Registered professional land surveyors may certify, using the registrant's signature and official seal, services which are not within the definition of professional land surveying as defined in the Act, provided that such certification does not violate any Texas or federal law.

Mr. Merten noted that Rules 661.46, 663.8(4), 663.10(6) and 663.19(d)—all pertaining to signing and sealing—should be reviewed for conflict with the proposed language. An initial review did not reveal any conflicts.

The Chair asked Ms. Chruszczak to review the noted rules for conflict. No other action was taken on this proposed language.

- c. RPLS/SIT Examination Committee – Jon Hodde, Chair
- i. *Approval of October 2016 exam*

Mr. Hodde reported that the members have an exam to review during the Executive Session. Since the last exam, 22 individuals attempted the SIT exam with seven passing successfully. This concluded Mr. Hodde's report.

d. LSLS Examination Committee – Bill Merten, Chair

Mr. Merten reported that on June 23, the LSLS Committee met with three applicants that were not successful in passing the LSLS exam to review the exam and answer questions they had. Immediately after, the Committee met with four prospective applicants that plan to take the exam. At this time, there are four individuals scheduled to take the exam in October. The Committee will be reviewing the exam because one individual has taken the exam before. This concluded Mr. Merten's report.

e. Continuing Education Committee – Paul Kwan, Chair

Mr. Kwan recommended the following courses be approved:

- TSPS- Chapter 13.
 - *Gradient Boundary Seminar*
- TSPS.
 - *Ethics for the Surveyor*
 - *Professional Ethics*

Mr. Garcia moved to accept Mr. Kwan's recommendations. The motion was seconded and passed unanimously.

5. Other Business

a. Lawsuit concerning the Red River

Mr. Hodde told the members that the Board would discuss this topic but not take any motions today. Mr. Edwards presented issues along the Red River and how they pertain to the Board. The gradient boundary was pointed out in the 1923 Supreme Court decision and a commission followed that with a representative from Texas, Colonel Arthur Stiles, and a representative from the federal government, Arthur Kidder, who together developed a scientific method of determining the gradient boundary. This method is fully described in the Texas Law Review (1952). Several court cases have further defended this method and it has been used to determine navigable streams throughout the state of Texas. In 2000, a compact between Texas and Oklahoma was ratified by Congress to determine the jurisdictional line between the two states. In the determination of the jurisdictional line, it was determined that the gradient boundary and the vegetation line was at or near the same point. Further convoluting the issue, the Bureau of Land Management has tried to determine where the gradient boundary line and the jurisdiction line is along the Red River between the 98th degree parallel and the clear fork of the Red River. Their determination contradicts the surveys done in the same area and Mr. Edwards has seen the monumentation, the survey by BLM, the surveys for private individuals that own ranches along the river, and letters in contest to the location of both the jurisdictional line and what the federal government assumes they own. In some places the difference can be a mile to a mile and a half. The jurisdictional line is at that same exact point that says "State of Texas" and "State of Oklahoma", there are substantial sized vegetation and trees. It seems to go against the compact. Mr. Edwards cited to Rule 665.1, Advisory Committees, saying that we have examination questions that address the gradient boundary is how Col. Stiles described it in the Texas Law Review. He believes it would benefit this Board and the citizens of Texas, if the Board were to address this in a friendly letter in the lawsuit between Texas and the Bureau of

Land Management that was filed in Wichita Falls District Court. Mr. Edwards said if the members agreed, he would find out what the court's schedule is and report back at a later date. This concluded Mr. Edwards report.

b. Reconsideration of request for degree exemption to take RPLS exam – William Brooks
Mr. Estrada informed the member that at the last meeting, a letter had been received from Paul Meyers on behalf of Mr. Brooks. Mr. Brooks is licensed in Colorado and was interested in becoming licensed in Texas. The Board denied the request and Mr. Meyers asked the Board to reconsider. It was brought to the attention of the office staff that others had been allowed to take the exam without a degree. Staff had not been able to identify such individuals. Mr. Edwards moved to deny the request and Mr. Kwan seconded the motion. Mr. Edwards said we have to use the rules that are in place. A vote was taken and the motion to deny was approved.

c. Rock, Paper, Scissors – easement dedication by civil engineers in Round Rock
This item was included in error.

d. Improper survey – Kerry Hoefner
Mr. Estrada told members that Mr. Hoefner wished to discuss an improper survey. Mr. Hoefner was not present and this item was tabled.

e. New degree program for University of Houston for 2017 – Paul Kwan
Mr. Kwan reported that two meetings ago the Board drafted a resolution to support the University of Houston's civil engineering program with a minor in surveying. This program is coming in 2017. The University and Professional Surveyor Foundation, Inc., a local foundation, is in the final process of drafting a five year agreement. The organization will be committed to \$10,000 per year to pay the salary of the instructor for the legal aspect of surveying.

f. Use of drones to estimate volume of land and create 3D topology
Mr. Estrada read an email from Alison Schumann saying she is considering buying a high end drone system to be programed to fly in a defined pattern over an area of land to collect 3-D data and photos to show topography of land or to perform volumetric surveying. She asks if they type of work can be done without a RPLS license. Mr. Hodde noted that our definition is all inclusive of what is asked but then restricts it to boundary work. Mr. Hodde asked Ms. Chruszczak to review our definition to clear this up. Ms. Chruszczak stated that it expands on GIS. Mr. Hodde stated that this is just another tool and we are not trying to control the tools. However, the definition needs to be reviewed. Mr. Garcia asked if the drone could be a tool that the surveyor can use but Mr. Hodde pointed out that this was a situation where a non-licensed individual was using the drone. Ms. Chruszczak stated that if the product relates to a boundary, the Board has jurisdiction. If it is someone calculating volume, then the Board may not have the liberty of controlling that aspect. Mr. Hodde said that we need to consider in our definition is when using this type of equipment or collecting this data, what happens when the public is harmed. Mr. Hodde noted that the FAA has just placed a ruling for handling commercial use of drones. There will be a Part 107 Pilot license for drones if you are using them for hire. Hobbyists would not be required to have a license. He also mention that he was called in to review data obtained using LIDAR where the data was obtained from a property with heavy vegetation. The LIDAR was bouncing off the vegetation and produced false data.

Ms. Chruszczak asked about data regarding SITs that passed the exam. She wondered if computer-based testing was resulting in a lower number of individuals passing. Mr. Hodde noted that NCEES determined that people are willing to pay a fee to reschedule their exam date so procrastination was a bigger issue. Ms. Chruszczak would like to see data to show that the process is working. Mr. Kwan stated that our passing ratio had dropped. A few years ago, the rate was 40-50% and now it is 30%. Mr. Estrada noted that a 33% passing rate is consistent between exams. Ms. Chruszczak wondered if the data showed that computer based exams were yielding an increase in the number of people that pass the test, perhaps the Board should consider moving the RPLS to computer based in the future.

6. Future Agenda Items – Select next meeting date

The next meeting was set for October 14, 2016 to be held during the TSPS annual convention in San Marcos.

7. Comments from the Public

Curtis Strong thanked the members for their hard work and service. Mr. Strong felt the rule change saying branch offices are not required to have a surveyor is a setback. This is not something that is going to protect the public. Robert Hansen said he had a high respect for the Board but supported what Mr. Strong said and vehemently opposed the rule change adopted today. The decision is a degradation and devaluation of RPLS, there will be a lack of control over work, there won't be supervision over work and the decision is short sighted. David Bell stated that he had a problem with surveyors signing surveys where they were never in the area where the work was performed. He asked the Board to reconsider the rule change. Eric Ashley said Mr. Kwan looked at the rule change from a professional perspective but there were others who don't.

The Chair called for a lunch break at 12:00 p.m.

The meeting was reconvened at 1:07 p.m. and the Chair announced that the Board would go into Executive Session. No official business would be acted on and no official action would be taken.

The Board closed the Executive Session and the open meeting was reconvened at 2:25 p.m. No decisions or official business was conducted during the closed session.

8. Adjourn

There being no further business, the meeting was adjourned at 2:26 p.m.