

**MINUTES OF THE REGULAR MEETING OF
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING
Embassy Suites Hotel & Convention Center
San Marcos, Texas
October 14, 2016**

NOTE: This meeting was the first meeting to be live-streamed.

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

The meeting was called to order at 8:07 a.m. The Chair, Jon Hodde, informed the audience that this meeting was being live streamed and asked the audience to be aware of the video cameras in the room. The Chair then called roll to establish a quorum. Members present were Drew Paxton, Davey Edwards, Paul Kwan, Mary Chruszczak, Bill Merten, and Jim Cheatham. Member Jerry Garcia was not present. Also present were Board staff members. Mr. Hodde introduced the new Assistant Attorney General, David Gordon, assigned to the Board.

Mr. Hodde invited the public to make comments. Dr. Stacy Lyle spoke about stolen oil in the state of Texas, stating that over \$60 million dollars of oil was taken in 2014. Dr. Lyle said it would be possible to finger print the oil to know which well it came from but the exact location it was taken from needs to be known. Based on Rule 663.18(e), Certification of other items, the Board should consider a clarification or future language of this rule permitting surveyors to certify samples being taken from oil and gas wells so that a finger print analysis can be run. The surveyor would be present when the geochemist takes the sample from the location determined by the client. This will help build forensic evidence for future court cases if someone believes their oil is being taken.

1. Approval of the July 22, 2016 Minutes

Mr. Paxton moved to approve minutes. The motion was seconded and carried unanimously.

2. Director's Report

Mr. Estrada reminded the audience members that, with the license renewal period about to begin, they should log on to their accounts to confirm they can access their account and confirm their information is correct (i.e. email address). This is important because the Board's staff can provide minimal assistance since the system the licensee is connecting to is administered by another agency.

a. Legislative Appropriations Request

Mr. Estrada went on to the Legislative Appropriations Request (LAR) submitted for the FY2018-2019 biennium. He noted the baseline appropriation amount was provided to the Board two weeks prior to LAR submission date. Further, due to an estimated lapse of funding from the FY2016 budget, the FY2018-2019 baseline budget was reduced by that amount. A policy letter from the Governor's office, asked agencies to reduce their budgets by 4%. Mr. Estrada stated that he has requested an exceptional item in the Board's LAR because the baseline was already reduced by approximately 5% and then further by the 4% requested in the policy letter. The Board also required to include a 10% reduction. Mr. Estrada explained that the lapse appropriations are from funds generated by the agency. He also explained that a second exceptional item was requested to increase the FTE cap by 0.5 and to provide funding for salary. Currently, an employee is working extended hours which means that the agency is over the cap and Mr. Estrada was concerned that, though having been told it was permissible, the agency would be in trouble.

b. Applications – Reference Waivers

Mr. Estrada asked staff member Natalie Jackson to discuss reference waivers. She informed the members that the waivers are used as part of the SIT and Reciprocal applications for exam

applicants. The concern is regarding the SIT reference waivers form and the information that is requested from the surveyor who completes the form. The reference must note how long the applicant had worked with them and what percentage of the time was in responsible charge in professional surveying versus the percentage in topographic and construction surveying. Ms. Jackson asked for guidance on what “responsible charge time” means and what part would meet the requirement set by the Act. A copy of the reference waiver was included for the members to review. The problem encountered is that the person completing the form does not know what percentage is required to pass an applicant through the application process. Ms. Jackson asked for guidance on what meets the requirement and what does not. Mr. Kwan asked if Ms. Jackson was asking for the Board to define the type of work that is responsible charge. Ms. Jackson stated that some who complete the form believe that both percentages count as responsible charge while others believe only professional surveying meets the requirement. Mr. Kwan believes that historically only boundary survey applies. Ms. Jackson asked if responsible charge should be removed when talking about construction and topographic surveying. Mr. Kwan suggest that changing the wording to “boundary surveying”. The Chair asked for a committee to examine this issue. Mr. Kwan and Mr. Merten will serve on this committee. Mr. Merten asked if this only applied to SITs and Ms. Jackson indicated that was correct.

c. Rules Process

Mr. Estrada reviewed the rules process since there were new members on the Board. This concluded Mr. Estrada’s report.

3. Complaints

a. Closed or Dismissed Complaints

Mr. Billingsley and Mr. McMinn, Board investigators, discussed complaints that had gone before the Complaint Review Panel composed of Ms. Chruszczak, Mr. Cheatham, Mr. McMinn, Mr. Billingsley and Mr. Estrada. The Panel concurred with dismissal of the following complaints:

- i. 12-43
- ii. 12-46**
- iii. 12-47**

These two complaints were filed by the same complainant against the same firm regarding two properties in the same block of a subdivision with the same basic allegations. The Complaints alleged that subject surveyor prepared survey plats that reflected incorrect building setback lines. Said surveys were used for the layout of buildings that were later determined to be encroaching on the platted setback. The block in question is two lots deep. The eastern portion of the eastern tier of lots was taken for right of way for a US Highway in March of 1991. The original 1948 subdivision plat called for 25 foot building setback lines along both sides of the original block. The surveys reflect a 10 feet building setback line along the west side of the block adjoining a minor street, and a 35 feet building setback line along the east side of the block adjoining the US Highway. After reviewing the complaint, the surveyor explained that the setbacks shown were based on City ordinance per the proposed use of the property. The surveys were topographic surveys (completed in 2008 and 2010). After reviewing the complaint, the surveyor issued a revised survey reflecting the platted setback lines. Based on the fact that the subject surveyor did issue a corrected survey once the issue was brought to his attention, it was recommended that the complaints be dismissed. The Executive Director recommended to the Panel that the current complaint be dismissed. After reviewing the facts, the review panel concurred.

- iv. 13-33
- v. 13-47**

Complaint alleged that the subject surveyor did not complete the agreed to subdivision work (did not plat a third lot) and overcharged for his services by \$800 over the high end of his cost estimate. The complainant requested that plat be released to be filed with the city. The surveyor agreed to

accept payments that had been made up to the amount in the original agreement on the same day the complaint was received by the board and the plat was filed for record 14 days later. The board investigator found that the issues in this complaint were contractual issues 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.

vi. 14-25

Complaint alleged that the subject surveyor signed and sealed two metes and bound descriptions based on an aerial photograph from an appraisal district. The complaint was based on a deed dated April 29, 2009 and recorded in the County Clerks' records. The deed included two undated descriptions with boundary sketches with a certification stating: "I, surveyors name, certify that the above field notes were prepared based on an aerial photograph obtained from _____ County Tax Appraisal Office. In the response by the surveyor, he provided copies of two deeds dated December 29, 1992 and February 1, 1993. Each deed included one of the two surveys. All three deed are from family members to family members. Being that the descriptions were proven to exceed the 10 year statute of repose for surveys in Texas and that no harm appears to have been caused by the descriptions, 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.

vii. 14-42

viii. 14-43

Complaint alleged that the subject surveyor surveyed two properties as one and refused to separate the two tracts to satisfy title underwriting requirements. The survey included two tracts of land. One is a platted lot and the other is by metes and bounds. The surveyor prepared a metes and bounds description of the whole of the two tracts. The title company simply wanted the survey revised to reflect the legals as a platted lot and a separate metes and bounds tract. The underwriter advised the closer that they needed a replat. The surveyor heard replat and said that's an additional service. Apparently the conversation never evolved to the point that the surveyor understood what they really needed. The title company hired another firm to resurvey the property as two tracts. The subject surveyor did not get paid for his survey. This situation was simply a communication issue and had they discussed the real issues that this probably would have been resolved without the need of a new survey. The board investigator found that the issues in this complaint were contractual issues 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.

ix. 14-48

x. 15-02

xi. 16-11

xii. 16-23

xiii. 16-50

Complaint alleged that the subject company is offering surveying without a license by offering a service to locate boundary lines of property with a cell phone. The web based company offers to provide coordinates accurate to approximately 30 feet for a tract of land based on submitted deeds and surveys. The company advertises that they take the supplied information and process the data by their own unique first-of-its-kind propriety software. Their goal is to produce GPS coordinates that are within 30 feet of accuracy on average. The web site now contains several disclaimers that they are not surveyors, their product is not a survey, and they advise that if you need your actual corners that you need to hire a licensed surveyor. These disclaimers were not in place when the complaint was submitted. Apparently the web site was revised as a result of the complaint. The board investigator found no violations of board rules based on the current disclaimers contained in the web

site. The board investigator voiced concerns, based on the statement in the companies response that “My business has already been investigated for surveying without a license and cleared either by staff or the survey boards in” four states, that any communication to the respondent should include verbiage that makes it clear the board is not endorsing the product or authorizing its use in the State of Texas. The Executive Director recommended to the review panel that the complaint be dismissed. After reviewing the facts, the review panel concurred.

Mr. Estrada asked the Board members if they would consider closing complaint 16-50 rather than dismissing the complaint due to concerns the investigator had by showing the complaint dismissed. The Chair asked for a motion, which was seconded, and the pursuing vote was unanimous.

b. Request for Reinvestigation

i. 12-45

Mr. Estrada reviewed the facts of this case with members, saying that members were informed at the July 22, 2016 meeting that this complaint was dismissed. On August 8, 2016, the complainant filed a request for reinvestigation asking for a refund of fees paid for a faulty survey. The surveyor’s license is on inactive status. Mr. Kwan moved for reinvestigation. The motion was seconded and discussion ensued. Mr. Kwan noted that while in inactive status, the Board has jurisdiction over the surveyor. If the license was expired, the surveyor would not be under the Board’s jurisdiction. Mr. Kwan felt that this is a money issue and questioned using Board resources to pursue a reinvestigation. Mr. McMinn noted that the survey was used for a closing when it was first issued, but when used for a second closing it was deemed unacceptable. The firm issued a corrected survey but the complainant requested a survey from another company. Mr. Paxton felt this was a civil matter regarding the fees charged. Mr. Cheatham agreed with Mr. Kwan and Mr. Paxton. A vote ensued after discussion and the vote was unanimous to deny.

ii. 13-26

Mr. Estrada asked that this complaint be tabled because it needed to be reposted under the correct heading.

c. Informal Settlement Conferences / State Office of Administrative Hearings (SOAH)

i. 12-22

Mr. Estrada reported that a Notice of Violations was sent to the respondent surveyor who did not request an Informal Settlement Conference. The investigation determined that this was not a standard of practice for the surveyor. The field crew had given information to the surveyor and information was transmitted data back to the crew to set the missing monuments. Later they discovered that their data collector had lost power and not received the data. Believing the monuments had been set, the surveyor released the survey. However, the owner looked for the monuments prior to the surveyor discovering that the data had not been received and the monuments had not been set. When this issue was discovered, the crew was sent to set the monuments. The recommendation is for the surveyor to receive reprimand and an administrative penalty in the amount of \$1,500. However, in light of the fact that this was not a standard of practice, it is recommended that respondent receive an Assurance of Voluntary Compliance in lieu of the administrative penalty. Mr. Kwan moved to approve the order since there was no harm done to the public. The motion was seconded and motion carried unanimously. The respondent is Jeffrey Cole, RPLS #5411.

ii. 12-33

Mr. Kwan and Mr. Garcia were part of the Informal Settlement Conference (ISC) committee. Mr. Kwan reported that the complaint was filed by a local government official alleging that the work was no good. The complaint form only contained an elevation certificate. The complainant has withdrawn the complaint and the surveyor has moved to west Texas. The surveyor voluntarily provided a random sample of his work which were good. He is a young surveyor and the survey in

this complaint contained minor drafting errors. The elevation certificate was done correctly. The committee recommends dismissal because no harm was done by his survey. Mr. Paxton moved to approve the committee's recommendation and was seconded. Mr. Merten asked if this complaint could be closed rather than dismissed so that it can be revived in the future, if necessary. Mr. Cheatham felt that even if this was dismissed, it would still be history that could be considered in future complaints against the respondent. The motion to dismiss was voted on and carried. Mr. Kwan and Mr. Garcia abstained from voting.

iii. 15-07

Mr. Kwan and Mr. Garcia participated in the ISC for this complaint. Mr. Kwan reported that the survey in this complaint was used in an initial closing with no issue. The same survey was used in four or five subsequent closings. The most recent buyer of the property contacted the surveyor to locate the corners and there was heated discussion regarding fees. The buyer filed a complaint alleging the surveyor was rude. The survey was reviewed and found very few drafting errors, however the surveyor seemed to be lacking in understanding the current rules and Act. The committee is recommending that the surveyor be issued an Assurance of Voluntary Compliance and successfully complete four hours of Continuing Education on the Board's Act and Rules in addition to the required 12 hours. Ms. Chruszczak moved to accept the agreed order. A second was offered and carried. Mr. Kwan and Mr. Garcia abstained from voting. The respondent is Timothy Muras, RPLS #4401.

iv. 16-55

Ms. Chruszczak and Mr. Cheatham were part of the ISC committee. Ms. Chruszczak reported that this individual had an issue with the electronic seal and electronic signature and was the perfect storm. The firm had several surveyors that had electronic seals and signatures. The CAD operator put this individual's seal with another surveyor's signature on a survey. The other surveyor did his review but never noticed the seal was not his. The survey was delivered and the property was sold using that survey. Several years later, the firm was bought by another firm and this survey was found in the files. The main concern is that surveyors should have control over their seal and signature and the surveyor understood this. The surveyor reviewed the steps involved when he worked for the firm and was dismayed to learn that this survey had been released. The committee felt that the complaint should be dismissed with an Assurance of Voluntary Compliance. Mr. Cheatham added that the surveyor had insisted with his employer that he be allowed control over his seal by requiring that any signature be his own handwritten signature. Mr. Kwan moved to approve the order. The motion was seconded and carried. Ms. Chruszczak and Mr. Cheatham abstained from voting.

Mr. Merten asked for statistics on open complaints. Mr. Billingsley reported there were 101 open complaints.

4. Committee Reports

a. Executive Committee –Jon Hodde, Chair

Mr. Hodde reported there was nothing to report.

b. Rules Committee – Mary Chruszczak, Chair

Ms. Chruszczak reported that there several rule language review for consideration in the Texas Register.

i. Proposed Rules

1. §661.31, Definitions

“(12) Seal – An embossed, 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.”

Mr. Merten made a motion to approve the proposed language for publication in the Texas Register. The motion was seconded and approved unanimously.

2. §661.57, Land Surveying Firms Compliance

“(2) A Firm shall designate a surveyor of record who is on site for the business entity . The surveyor of record must be an active license holder who is employed fulltime by the Firm. ~~and who is on site at the Firm’s office.~~

”

Mr. Hodde voiced concern over adopting a rule that could not be policed. Mr. Kwan moved to approve the rule as proposed for publication in the Texas Register. Ms. Chruszczak seconded the motion. Mr. Kwan wanted to know, with the rule as it currently reads, how the Board could enforce the rule? Mr. Estrada noted that the current rule only requires a firm to designate a surveyor for a branch but does not require the surveyor to be located at the branch. Mr. Kwan wanted to know what that would accomplish other than paper work being done correctly. Mr. Estrada felt that the concern was more with “direct supervision”. Mr. Billingsley offered comments on investigating this rule but acknowledged that the investigators do not physically go to the office. Mr. Kwan questioned where the supervision would be if the branch is in one city but the supervising surveyor is in another city. Mr. Edwards agreed with Mr. Hodde and felt the rule should remain as is. Mr. Merten stated that the spirit of the rule was to prevent a surveyor in another state from having multiple crews across Texas producing surveys. The question then is how many crews can the RPLS supervise? The answer is left up to the professional. Mr. Merten questions the need to change the rule at this time.

Regarding paragraph (10), Ms. Chruszczak said that the Board could not enforce rules against contract crews. The crews did not have supervision unless they had an RPLS. It is important this not apply to contract employees since it is intended to deal with contract crews.

A vote was taken and majority vote was against publishing the rule.

3. §663.13, Introduction

The Board establishes these minimum standards of practice to better serve the general public in regulating the practice of professional land surveying in Texas. Professional land surveying performed in Texas, unless otherwise specifically exempted herein, shall meet or exceed the requirements of these standards. The Board considers any survey, the purpose of which is to delineate, segregate, separate, or partition any interest in real property of any kind, under these standards except when prepared pursuant to §663.21 of this title (relating to Descriptions for Political Subdivisions).

The corrections to this rule are house-keeping. Mr. Edwards moved to approve for publication. The motion was seconded and passed unanimously.

4. §663.16(3)(D), Boundary Construction

(D) shall review the record instrument that defines the location of the adjoining boundaries and if appropriate to the chain of title of the tract being surveyed, cite the record instrument on the drawing and prepared description.

This rule takes the language from rule 663.19(f) and places it in rule 663.16(3)(D). Mr. Kwan moved to approve for publication. The motion was seconded and approved.

5. §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.

(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.

(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.

(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.

(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. Kwan moved to publish this proposed rule in the Texas Register. The motion was seconded and passed unanimously.

6. §663.19(f), Survey Drawing/Written Description/Report.

Mr. Paxton moved to approve this proposed rule for publication in the Texas Register. The motion was seconded and passed unanimously.

ii. Proposed language for use of drones

Mr. Hodde explained that the Board is not trying to regulate drones but wants to investigate the use of drones on a survey by a registered surveyor. He suggested the Ms. Chruszczak look at how other states are defining the use of drones.

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

The Chair reconvened the meeting at 10:44 a.m.

c. RPLS/SIT Examination Committee – Jon Hodde, Chair

i. Surveyor In Training (SIT) Report

Mr. Hodde reported that since July 2016, 34 individuals sat for the exam, 10 passed. Mr. Hodde asked for a motion to certify these 10 individuals. A motion was offered and seconded and the vote was unanimous.

ii. Item Writer's Committee

Mr. Hodde informed the members that he had resolutions for the outgoing Item Writer's Committee members. He then asked for Ken Gold, David Myers, John Russell and Thomas Houston to come to the front of the room. David Myers, John Russell and Thomas Houston were not present. Mr. Gold then made comments expressing his thanks.

1. Resolution for Outgoing Item Writer's Committee members

RESOLUTION

Adopted by the
Texas Board of Professional Land Surveying
October 14, 2016
Honoring

Thomas James Houston

*Register Professional Land Surveyor
Licensed State Land Surveyor
No. 4261*

Whereas, the Texas Board of Professional Land Surveying, through the Professional Land Surveying Practices Act, is given authority to create exam advisory committees; and

Whereas, in accordance with the Act, the Texas Board of Professional Land Surveying has created the Item Writers Committee for the purpose of developing exams by writing exam questions to ensure only competent candidates pass the exam; and

Whereas, the Committee's goal is to ensure a registrant's ability to protect the public's safety, welfare and property; and

Whereas, members are appointed by the Texas Board of Professional Land Surveying pursuant to qualifications established by the Board; and

Whereas, appointed members have served on the Committee with pride and honor for the profession of land surveying;

Now, therefore, be it resolved, that the Members of the Texas Board of Professional Land Surveying, and on behalf of the Board's staff, express their sincere appreciation and gratitude to Committee member Thomas James Houston (1990-2016) for his dedicated service to this Board.

Signed this 14th Day of October in the Year of Our Lord, 2016 A.D.

RESOLUTION

Adopted by the
Texas Board of Professional Land Surveying
October 14, 2016
Honoring

John Michael Russell

*Registered Professional Land Surveyor
No. 5305*

Whereas, the Texas Board of Professional Land Surveying, through the Professional Land Surveying Practices Act, is given authority to create exam advisory committees; and

Whereas, in accordance with the Act, the Texas Board of Professional Land Surveying has created the Item Writers Committee for the purpose of developing exams by writing exam questions to ensure only competent candidates pass the exam; and

Whereas, the Committee's goal is to ensure a registrant's ability to protect the public's safety, welfare and property; and

Whereas, members are appointed by the Texas Board of Professional Land Surveying pursuant to qualifications established by the Board; and

Whereas, appointed members have served on the Committee with pride and honor for the profession of land surveying;

Now, therefore, be it resolved, that the Members of the Texas Board of Professional Land Surveying, and on behalf of the Board's staff, express their sincere appreciation and gratitude to Committee member John Michael Russell (2008-2016) for his dedicated service to this Board.

Signed this 14th Day of October in the Year of Our Lord, 2016 A.D.

2. Presentation to David Myers and Ken Gold

RESOLUTION

Adopted by the
Texas Board of Professional Land Surveying

October 14, 2016

Honoring

David Wayne Myers

Registered Professional Land Surveyor

Licensed State Land Surveyor

No. 2562

Whereas, the Texas Board of Professional Land Surveying, through the Professional Land Surveying Practices Act, is given authority to create exam advisory committees; and

Whereas, in accordance with the Act, the Texas Board of Professional Land Surveying has created the Item Writers Committee for the purpose of developing exams by writing exam questions to ensure only competent candidates pass the exam; and

Whereas, the Committee's goal is to ensure a registrant's ability to protect the public's safety, welfare and property; and

Whereas, members are appointed by the Texas Board of Professional Land Surveying pursuant to qualifications established by the Board; and

Whereas, appointed members have served on the Committee with pride and honor for the profession of land surveying;

Now, therefore, be it resolved, that the Members of the Texas Board of Professional Land Surveying, and on behalf of the Board's staff, express their sincere appreciation and gratitude to Committee member and Vice Chair David Wayne Myers (1986-2016) for his dedicated service to this Board.

Signed this 14th Day of October in the Year of Our Lord, 2016 A.D.

RESOLUTION

Adopted by the
Texas Board of Professional Land Surveying
October 14, 2016

Honoring

Kenneth G. Gold

*Registered Professional Land Surveyor
No. 1223*

Whereas, the Texas Board of Professional Land Surveying, through the Professional Land Surveying Practices Act, is given authority to create exam advisory committees; and

Whereas, in accordance with the Act, the Texas Board of Professional Land Surveying has created the Item Writers Committee for the purpose of developing exams by writing exam questions to ensure only competent candidates pass the exam; and

Whereas, the Committee's goal is to ensure a registrant's ability to protect the public's safety, welfare and property; and

Whereas, members are appointed by the Texas Board of Professional Land Surveying pursuant to qualifications established by the Board; and

Whereas, appointed members have served on the Committee with pride and honor for the profession of land surveying;

Now, therefore, be it resolved, that the Members of the Texas Board of Professional Land Surveying, and on behalf of the Board's staff, express their sincere appreciation and gratitude to Committee member and Chair, Kenneth G. Gold (1986-2016) for his dedicated service to this Board.

Signed this 14th Day of October in the Year of Our Lord, 2016 A.D.

3. Appointment of New Committee Members

Mr. Hodde indicated that the following individuals would be appointed to the Item Writers Committee.

- a. Douglas W. Turner
- b. Chris E. Carlson
- c. Connor G. Brown
- d. Jon P. Hoebelheinrich
- e. Dorothy J. Taylor

4. Approval of Ken Gold & David Myers as Committee Consultants

Mr. Hodde informed the members that Mr. Gold and Mr. Myers would continue working with the Item Writers Committee as consultants.

5. Appointment of Chair and Vice-Chair for Item Writers Committee

Mr. Hodde informed the members that Coleen Johnson has been named as Chair, and Billy Bernsen would serve as Vice-Chair of the Item Writers Committee.

iii. Cut-off Score Committee

1. Appointment of Board liaison

Mr. Hodde asked for a member to volunteer to serve on the cut-off score committee. Mr. Edwards volunteered to serve.

d. LSLs Examination Committee – Bill Merten

Mr. Merten reported that after the last meeting, the exam had been selected for LSLs exam. There would be four individuals sitting for the exam.

e. Legislative Needs – Bill Merten

Mr. Merten reported that the legislative session would be starting soon and they are watching for legislation. They will also be looking into the rules approval.

f. Continuing Education Committee – Paul Kwan, Chair

Mr. Kwan recommended approval of the following:

TSPS. *Riverine Adventure!* 6 hours but none towards ethics.

Texas Oil & Gas: Surveying Upstream. 4 hours but none towards Ethics/rules.

The New 2016 ALTA/NSPS Standards. 8 hours, but none towards rules.

HalfMoon. *Resolving Boundary Disputes.*

Locating Land Boundaries on Paper.

Defining Trespass and Adverse Possession.

Identifying, Classifying and Locating Easements.

Land and Water Law: Easements, Eminent Domain and Water Rights

Surveying Education Foundation of Texas Inc. *Texas River Surveys*

Leonard Woods. *Starr Wars – A Survey of No Man's Land*

James Gillis. *GNSS, Geodesy and Map Projections for Texas Land Surveyors*

Surveyedu.com. *Boundary Surveys – Lots & Blocks*

McKissock 100% Education. *Online Correspondence: Fundamentals of Boundary Control*

Ethical Practice in Engineering and Land Surveying

FIP/FEMA Flood Plain Management

Introduction to GIS Technology

101 Applications for GIS

Geomatic Resources, LLC. *Leica Infinity Training (8 hours instead of requested 16 hours)*

Mr. Kwan recommended rejecting the following:

Individual Course Approval. Perry Thompson

Steven J. Freeman, II

Retaining Wall Design and Slope Stabilization Techniques

Mr. Paxton moved to approve and reject course requests as Mr. Kwan recommended. The motion was seconded and passed. Mr. Edwards abstained, being a moderator for one of the courses.

5. Other Business

a. Executive Session: Pending litigation (Closed Business)

The Chair stated that this item would be moved to follow Comments from the Public.

b. Lawsuit concerning the Red River

i. Update/Discussion – to discuss filing of amicus brief in *Aderholt v. BLM*

Mr. Edwards reminded members that he had discussed the history of the Red River and the Supreme Court decision regarding the method for surveying the river, and the 2000 Red River Compact that set the jurisdiction between Texas and Oklahoma. He also had mentioned the lawsuit between property owners and the BLM. The court has since issued a schedule and all documents should be turned in by March 2017. Mr. Edwards went on to read from the amicus brief that Congress submitted to the court, which mentions the Texas Board of Professional Land Surveying. Mr. Edwards moved that with the assistance of the Attorney General's representative, TBPLS write an amicus brief to the court. The motion was seconded. Mr. Edwards mentioned that there may be amicus briefs in the courts that the Board could piggy-back on however, if the Board decides to move forward, there may be a financial cost. Mr. Gordon clarified that the motion would entail a request to the Attorney General's office to

prepare an amicus brief or, in the alternative a request to hire outside counsel to prepare the amicus brief. The considerations will depend on the amount of expertise and resources available in the Attorney General's office. Mr. Merten asked if the legality of the Board participating had been cleared up. Mr. Gordon had not analyzed this yet. The motion was voted on and carried unanimously.

6. Future Agenda Items – Select next meeting date

a. December 2, 2016, TCEQ Agenda Room, 9:00 a.m.

7. Comments from the Public

The Chair called for comments from the public. Kerry Hoefner asked if our license is pure boundary, there is no question about whether there has been responsible charge with construction and topographic surveys. However, the portion addressing certification would indicate the surveyor has broader experience. Either take the language out because it has nothing to do with the license or leave it in because it shows we are serving the public.

Larry Sherlock spoke regarding having surveyors on site when taking oil well samples would fall under the purview of the land surveyor.

Having no further comments, the Board entered into Executive Session at 11:00 a.m.

The Board closed the Executive Session reconvened the public meeting at 11:56. No official Board business was conducted during the session. Before proceeding, Mr. Hodde asked for a motion to excuse Mr. Garcia and Mr. Cheatham from being absent from the last meeting. Mr. Merten moved to excuse the members. The motion was seconded and carried.

Regarding pending litigation, Mr. Hodde stated the motion, as clarified by Mr. Gordon, shall the Board move forward with the motions to quash in the litigation First Regal Properties LLC vs. Jurassic in the 189th District Court of Harris County, Cause No. 2014-57490? Mr. Edwards moved to approve the motion. The motion was seconded and approved unanimously.

8. Adjourn

Having no further business, the meeting was adjourned at 11:59 a.m.