

MINUTES
TEXAS BOARD OF PROFESSIONAL LAND SURVEYING
12100 Park 35 Circle, Bldg. E, Rm. 201
Austin, Texas
March 3, 2017, 9:00 a.m.

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

The Chair called the meeting to order at 9:09 a.m. and then called roll to establish a quorum. Present were Jon Hodde, Chair, members Paul Kwan, Drew Paxton, Bill Merten, Davey Edwards, Jerry Garcia and Mark Neugebauer. Absent were Jim Cheatham and Mary Chruszczak. Also present were Marcelino A. Estrada, Executive Director, and Board staff.

The Chair asked the audience to introduce themselves and then opened the floor to public comments. Bill O'Hara, Governmental Affairs Chair, TSPS, requested a public hearing on the recently published TBPLS rules. Mr. Hodde commented that there was confusion regarding showing adjoining and wanted everyone to know that the rule is still there but in a different location. Mr. O'Hara also wanted to notify the Board that TSPS was working on a Legislative Day (March 22) to talk to legislators. TSPS members will ask the legislators to fully fund the Board for the upcoming biennium and a positive report from the Sunset Review. TSPS is following SB 71 (Zafferini), regarding a transfer of the bed of the San Marcos River to the City of San Marcos; SB 127 (Huffines), regarding internet broadcast of the TBPLS board meetings; HB 106 (Martinez), regarding drones, certain images captured by unmanned aircraft; HB 352 (Muir), regarding procedure by which a state agency can issue an opinion that a stream or watercourse is navigable; HB 1325 (Navarez), regarding the removal of survey services from sales tax.

1. Approval of the December 2, 2016 Minutes

The Chair called for a motion to approve the minutes of the December 2, 2016 meeting. Mr. Garcia moved that they minutes be approved. The motion was seconded and carried.

2. Director's Report

a. Update on appropriations hearings

Mr. Estrada reported that he had requested two exceptional items in the Legislative Appropriations Request. One was for the restoration of approximately 4% in budget reduction due to lapsed funds. Mr. Estrada learned just before the Senate Finance Committee hearing that the amount equal to the lapsed funds had been restored. This leaves one exceptional item which is the increase in the full-time equivalent cap from 5.5 to 6.0 plus the funding for a part-time position. Mr. Garcia asked about the Sunset Review which will occur in 2019. Mr. Estrada thought that the agency would be reviewed in 2018. Mr. Garcia stated that this review added impetus to the 10 statute of repose and felt that one concern the Sunset Commission would have is why complaint resolution is taking so long. Mr. Estrada noted that several agencies presenting before the House Appropriations Committee were asking for restoration of the 4% budget reduction and the committee did not appreciate the request. Another bit of information Mr. Estrada learned was that of those agencies going through Sunset Review, one of the recommendations being made was to stop registering related firms.

b. Request for direction from the Board concerning application of rules to companies that use "field services" as part of their company name

Mr. Estrada informed the members that Investigator Mike McMinn had found companies with the phrase "field services" in their name. The companies are offering services predominately oil and gas pipeline companies. These firms are often not registered with the Board and some appear to be offering surveying. Mr. McMinn mentioned that three or four firms had been reported to the Board. "Field services" is a broad term for outfits that support the oil and gas industry. Some offer a specific service

but there are some that offer surveying services. These companies prepare easement sketches that do not meet Board rule and then file them without certification. Mr. Garcia asked who the companies were providing the services to and what the liabilities are. Mr. McMinn said that the services are provided to oil and gas pipeline companies but there is no seal and signature so no one takes liability. One of the issue is that easements are not being monumented. Mr. Edwards asked how these companies were coming to our attention and what damages are incurred. Mr. McMinn said that often competitors were turning the companies in and that we were not aware of damages. Mr. Kwan said that these complaints needed to be looked at on an individual basis.

Mr. Estrada noted that continuing education audit letters had been mailed to 475 individuals. Members will be updated at the next meeting.

This concluded Mr. Estrada's report.

3. Complaints

a. Closed or Dismissed Complaints

i. 14-32

This complaint alleges that the surveyor committed fraud by taking bribes to falsify his survey plats at the request of an attorney. According to the attorney, the complainant was involved in litigation regarding a boundary line dispute with the attorney's client. Surveyors for both parties, including the subject surveyor conducted surveys and apparently agreed on the location of the disputed boundary line. The complainant did not agree with the surveyed location. A review of the file confirms that the survey in question was used as the basis of the Default Judgement rendered against the complainant in Judicial District Court. The complainant apparently failed to appear for the trial and the Default Judgement against him was entered by the court.

The file includes a letter from the then District Attorney that states: "Please let the board know that the only misbehavin' out at the property was by the complainant and that nobody, including the deputies who went to the scene had anything negative to say about the subject surveyor." Conversations with the attorney and the current District Attorney verified the information in the complaint file. A review of the survey in question found no violations of board rules and Complaint 14-32 was recommended for dismissal.

ii. 16-01

The complainant stated that she contacted the subject surveyor, asking him to correct the address on 2 surveys he had signed and sealed in September 1996. The surveyor explained that he was unable to do so since the survey was done more than 20 years ago, and this complaint followed.

When the surveyor responded to the complaint, he stated that he had not had any communication with the complainant, and after the complaint had been filed, he went ahead and amended the addresses on the 2 surveys and sent them to the complainant.

Due to the age of the surveys, they will not be taken under review by the Board. A review of the survey in question found no violations of board rules and Complaint 16-01 was recommended for dismissal.

iii. 16-38

The complainant stated that she is involved in a boundary dispute and that the subject surveyor had performed her survey in 2008. She stated she believes the subject surveyor's survey is accurate, and that

the survey performed by another surveyor has located her and her neighbor's common boundary line 26.5 feet out of position.

I appears that the complainant inadvertently filled out a complaint form against the subject surveyor, thinking it was a requirement to send his survey to the Board for comparison with the other surveyor's survey. A second complaint was also filed against the surveyor that is apparently creating the issue in question.

A review of the survey in question found no violations of board rules and Complaint 16-38 was recommended for dismissal

iv. 16-39

The complainant stated that she is involved in a boundary dispute and that the subject surveyor had performed her neighbor's survey in 2016. She stated she believes the subject surveyor's survey is inaccurate and has located her and her neighbor's common boundary line 26.5 feet out of position.

The survey in question was signed and sealed by the subject surveyor on April 28, 2016. The survey is for all of Lot 3 and Parts of Lots 1 and 2, Block 2 of the subdivision. The complainant is the owner of Lot 4 in said addition and the dispute is the location of the common line between said Lots 3 and 4.

The subject surveyor stated in his response that the subdivision plat for the subject lots was recorded in 1908. He was unable to recover any monuments within the addition, and established the addition property lines by finding monuments on senior adjacent tracts and laying out the addition from there.

The complainant's surveyor said he spoke with the former County surveyor and was informed that no monuments were available and that the boundary lines were locatable by using the old building corners. Both surveyors made a professional opinion as to the boundary locations. The correct location should be determined by the court.

A review of the survey in question found no violations of board rules and Complaint 16-39 was recommended for dismissal.

v. 16-49

The complaint alleges that the subject surveyor failed to provide an elevation certificate he was paid for.

The complainant contacted the subject surveyor on or about June 16, 2016. The complainant had purchased property surveyed by the subject surveyor in 2014. The complainant was refinancing his home and the bank needed flood insurance on the property. The insurance company would not accept the previous elevation certificate provided by the subject surveyor as it did not include the garage.

The subject surveyor and the complainant did not have a good relationship during the time the request for work took place. The complainant contacted PayPal and requested a refund, which he received. The subject surveyor said he canceled the project due to the hostility and vulgar language demonstrated by the complainant.

This is a contractual issue and does not fall under the purview of the Board and Complaint 16-49 was recommended for dismissal.

vi. 16-53

The complaint alleges that the subject surveyor failed to return confidential information regarding property surveyed.

The subject surveyor had contacted the complainant regarding surveying a common boundary line between his client and the complainant's property. The purpose of the survey was to replace an old fence on the deeded property line between the properties.

The complainant informed the subject surveyor that he had compiled research information on the properties going back to the 1800's and had it in a bound book. He offered to share this information with the subject surveyor with the understanding that it was proprietary and confidential information and that it was to be returned to the complainant.

The deal to survey the complainant's property fell through with the subject surveyor's client, and the complainant requested a price to survey the adjoining property. The subject surveyor felt that a conflict between the two property owners might exist, so he decided not to submit a bid to survey the property. He said he was asked to return the research information on July 11, 2016. Due to workload and a medical family emergency, it was returned on August 10, 2016. A Fed Ex Tracking receipt was submitted with the response to the Board.

This is a contractual issue and does not fall under the purview of the Board and Complaint 16-53 was recommended for dismissal.

vii. 16-56

The complaint alleges that the subject surveyor failed to provide a survey paid for by complainant who is requesting a monetary refund.

The subject surveyor was hired in June, 2015 to survey a 40 acre tract of land. The agreement was to provide a boundary survey within a reasonable time frame. The complainant sent a check to the surveyor for partial payment and it cleared the bank within one week. The complainant said the subject surveyor assured them the survey would be completed by July 8, 2015.

Throughout the past year, the complainant said he had spoken to either the subject surveyor or a female at the company, and was told that a field crew would be going out to the project site. He said the subject surveyor received the partial payment and understood his obligation to provide the survey. The complainant said enough time has passed and is requesting a refund.

In his response, the subject surveyor indicated that he had sent to the complainant the signed and sealed survey, dated September 16, 2016, a metes and bounds description of the survey, copies of deeds used to construct the boundary, and a check refunding the partial payment paid by the complainant. Copies were also sent to the Board for verification.

The subject surveyor did complete the survey and provided it to the complainant along with a check refunding the partial payment. Complaint 16-56 was recommended for dismissal.

viii. 16-59

The complaint alleges the subject surveyor failed to provide a survey for which he was paid.

The complainant says they paid the subject surveyor a fee to perform a full survey of the property. They say they have been unable to locate the owner of the firm to get the matter resolved. They are requesting the survey be completed or issue a refund for the money they paid.

The owner of the firm responded to the complaint and said the firm was never asked to perform a full survey on the subject property. He said there was no communication between the complainant and their firm. He indicated they had communicated with another person and had performed a title survey at another address within the immediate area, and had been asked to flag the property corners at the subject address. The title survey was completed and the corners requested flagged on February 15, 2013, and the bill for the service was paid for the same year. The firm was recently contacted by the complainant wanting the full survey for the subject address. They were told they could provide the survey for a fee, and the complaint followed.

This complaint is a contractual matter and no violations are found. It was recommended that Complaint 16-59 be dismissed.

ix. 17-01

The complaint alleges that the subject surveyor failed to indicate on his survey the correct number of lots their house occupies.

The complainant bought their house in April, 2006. The survey used at the closing was signed and sealed by the subject surveyor on June 18, 2005, showing the property to occupy Lots 24 and 25, and the west 15 feet of Lot 23, in Block 1.

The complainant was notified that their property included Lot 26 in said block, and past due taxes were owed on that lot. A new survey was performed by another surveyor, which indicates the property does include Lots 26, 25, 24, and the west 15 feet of Lot 23. This agrees with a previous deed recorded in 1956. There is an apparent typo in subsequent deeds regarding the property.

In his response, the subject surveyor said he tried to contact the firm's office that performed the survey and found that it had closed. He called the main office and was told they no longer had the records from the office in question. With the date of the survey being May 18, 2005, he said the owners of the company had no interest in helping him.

The subject surveyor said that when he signed and sealed the survey, he had been with the company three days. He said the way business was conducted left him vulnerable. They hired contract field crews at a percentage of the cost of the survey so a minimum amount of field work was performed. He said the tie to the block corner was either not field verified or ignored by the cad tech. He said he had no idea that there was an error in the deed when title transferred in 1989, omitting Lot 26.

In reviewing the signed and sealed survey by the subject surveyor, and considering the rules in place at that time, the following violations were found:

§663.16. Boundary Construction.

A land surveyor assuming the responsibility of performing a land survey also assumes the responsibility for such research of adequate thoroughness to support the determination of the location of intended boundaries of the land parcel surveyed. The surveyor may rely on record data related to the determination of boundaries furnished for the registrants' use by a qualified provider, provided the registrant reasonably believes such data to be sufficient and notes, references, or credits the documentation by which it is furnished.

The subject surveyor violated this rule by not ensuring sufficient field work was performed to determine the correct location of the property being surveyed. It should have been determined that

the house on the property occupied more lots than was shown in the deed.

§663.19. Plat/Description/Report

(4). Courses shall be referenced by notation upon the survey plat to an identifiable line for directional control.

The subject surveyor violated this rule by not indicating a Basis of Bearing on his survey plat.

The complainant has been assessed back taxes on property they did not know they owned, as the result of the subject surveyor's survey, in the amount of \$46,000. In reviewing the survey plat, two violations were found, which would result in a reprimand and an administrative penalty of \$3,000. This survey, however, is more than 10 years old, and in keeping with the Board's policy, not a viable complaint. As such, the complaint was brought before the Complaint Review Panel with a recommendation of dismissal. The Complaint Review Panel determined the subject surveyor performed an adequate job and the complaint is dismissed.

x. 17-03

Mr. Estrada said that this item needed to be table. Dr. Edwards moved to table the complaint. The motion was seconded and carried.

xi. 17-07

The complaint was filed against the subject surveyor for placing a Mechanic's Lien on the Complainant's property.

The complainant stated that the subject surveyor entered an agreement with her sister to survey 40.975 acres of land. The complainant states that her sister did not have the authority to order the survey. She also indicates that the survey was not necessary and that her sister was unaware of this.

The complainant is asking that the subject surveyor speak with her concerning this matter. She said billing information was never sent to either her or her sister. She wants the lien removed from her property.

This is a contractual issue between the complainant and the subject surveyor, which does not fall under the purview of the Board. It is recommended that this complaint be dismissed.

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

i. 12-41

Mr. Kwan reported that the surveyor performed a survey for the property owner and was paid by the title company. Property owner also paid and later requested a refund. At the Informal Settlement Conference the subject surveyor said he had completed other projects for the property owner and had applied the refund to those costs. There was lack of communication between the property owner and the surveyor. The committee felt that this complaint was based on a contractual issue and recommended dismissal. Dr. Edwards moved to accept the recommendation. The motion was seconded and carried. Mr. Kwan and Mr. Paxton abstained from voting.

ii. 12-50

Mr. Kwan reported that he and Mr. Paxton were on the Informal Settlement Conference committee concerning this complaint. The complaint was filed by the local government agency. The surveyor had performed a survey for a low income housing project. The surveyor essentially performed a four-corner

survey that was inadequate. The surveyor who signed the survey no longer works for the company so the complaint we held against the company. No research was conducted, the field work was lacking. The recommendation was for \$6,000 administrative penalty. The owner indicated that he had been doing this for 20 years but was informed that he was not licensed and could not control the product. Mr. Garcia moved to accept the committee's recommendation. The motion was seconded and approved. The firm involved was Texas Star Surveying, registration #10137800. Mr. Kwan and Mr. Paxton abstained from voting.

iii. 13-38

Mr. Kwan reported that he and Mr. Garcia were on the Informal Settlement Conference committee concerning this complaint. The surveyor was hired to recover the property corners of a tract of land that was being purchased. The buyer did not want a survey, only wanted the corners flagged. The surveyor performed research and a working sketch. He also notified the buyer that he needed to have a survey done. After the purchase, the buyer needed financing and asked the surveyor to complete a surveyor. The surveyor was unable to at that time so another surveyor was hired. The second surveyor found that the corners flagged were not the real corners, which were 15 feet or so further out. The buyer filed a complaint. The original surveyor performed quite a bit of work in research and clearing the land. The buyer was informed that a complete survey should be performed and that what was being done did not amount to a survey. Since the surveyor had not been contractually hired to perform a survey, the committee recommends dismissal. Mr. Merten moved to accept the recommendation. The motion was seconded and carried. Mr. Kwan and Mr. Garcia abstained from voting.

iv. 13-43

Mr. Garcia and Mr. Cheatham served on the Informal Settlement Conference committee. The complaint concerned a survey that was signed by a surveyor who went inactive. There were errors in the survey and a local surveyor who noted errors contacted the inactive surveyor to correct the survey. The owner of the company, which is registered, responded to the complaint. The company has electronic files but no paper copies. Since the survey was corrected and no harm done, the committee recommends dismissal. Mr. Garcia move to accept the recommendation and was seconded. The motion carried. Mr. Garcia and Mr. Cheatham abstained from voting.

v. 14-24

Mr. Garcia and Mr. Cheatham served on the Informal Settlement Conference committee. The complaint concerned the survey of property located in the urban area of old city. The surveyor called for the lot to be 66.5 feet wide. The lots, based on records available, were 63.5 feet wide. The surveyor did not perform enough research, failed to perform enough field work. The surveyor had also surveyed the adjoining track of land and the committee suggested that she go back and correct the survey for that lot as well. The committee recommends a reprimand and an administrative penalty of \$3,750. Mr. Garcia moved to accept the recommendation. The motion was seconded and the motion carried. The surveyor involved was Teresa Seidel, RPLS #5672. Mr. Garcia and Mr. Cheatham abstained from voting.

vi. 14-37

Mr. Garcia and Mr. Kwan served on the Informal Settlement Committee. The surveyor set a small piece of rebar surrounded by rocks. The terrain was rocky and this was the best the surveyor could do at the time. The complainant alleged that the surveyor was sorely lacking in his survey. The surveyor went out to address the concern and found that the stack had been moved, rocks had been moved and mesquite had been cut in the subject area. A fence had also been built in the immediate area. There was no other way for the surveyor to set the pin and it appears the fence building had moved the monument for his convenience. The recommendation being placed before the members is to dismiss the complaint. Mr. Merten moved to accept the recommendation. The motion was seconded and carried.

vii. 15-22

Mr. Merten and Mr. Garcia served on the Informal Settlement Committee. The complaint concerned a survey done in 2005. The owner of the property was told by her neighbor in 2015 that part of the property and improvements were encroaching on the neighbor's property. After being notified of the

complaint, the surveyor offered to refund the cost of the survey and the cost of a new driveway. The monumentation for the boundary was not in place at the time of the survey and misconstrued so the driveway was placed in the wrong place. The Committee determined that the surveyor violated rule 663.17(b) and (d), failing to set sufficient monumentation and 663.19(6), (7), and (8) for failing to show controlling monuments and adjoining information on the plat. The recommendation is for a letter of reprimand and an administrative penalty of \$7,500. Mr. Kwan moved to accept the recommendation. The motion was seconded and carried. Mr. Merten and Mr. Garcia abstained from voting. This complaint concerned Mark Mathews, RPLS #5483.

viii. 16-10

Mr. Estrada informed the members that there was no Informal Settlement Conference held. The complaint concerned a request for a quote to survey a tract of land. The original quote was for \$250 but the surveyor later changed that to \$350, saying there was more property than he originally thought. Later, the surveyor changed the amount to \$650, claiming he had hit a wrong key, plus a skunk at city hall. When contacted, the surveyor indicated that the reference to the skunk stemmed back to the 1980's when the complainant's father delivered a skunk to city hall in protest of a city code. The subject surveyor's father was chief of police at the time. The surveyor also indicated that the complainant was telling staff at the appraisal district and county clerk's office that the surveyor was money hungry and had a gross lack of compassion for the underprivileged and elder. The subject property belonged to the complainant's elderly mother. It was determined that this was a contractual issue and not under the purview of the Board. However, we felt that subject surveyor's behavior was a violation of rule 663.10(5) relating to conduct discrediting surveying. He was sent an agreed order for the violation, along with an Assurance of Voluntary Compliance for surveyor to acknowledge that he always adhere to the Board's rules. The surveyor remitted the signed Agreed Order and AVC. Mr. Garcia moved to adopt the Agreed Order. The motion was seconded and carried. The surveyor involved is J.D. Davis, RPLS #5626.

ix. 16-21

Mr. Merten reported that he and Mr. Garcia served on the Informal Settlement Conference committee concerning this complaint. The complaint alleged that the complaining surveyor was following the footsteps of the original surveyor but did not find any monuments. The complaint was filed in 2016 and the survey was in September 2006. The subject surveyor did not dispute the work was inadequate. The work was on a city block. He admitted that at that time he was opening his business and was remorseful that he was not doing adequate work. It was determined that he violated 663.11(1) for failing to show to show survey markers on the survey plat, rule 663.16(b), (c) and (d) for failing to use appropriate deeds for adjoining properties. He failed to pull the deed for the property to the north and it resulted in an overlap. Rule 663.17(b) for failing to insure markers were shown as sufficient evidence as location, 663.19(1), (2), (4) and (6) for certifying to a TSPS category 1A, condition 2, in which the survey did not meet the requirements. Contingent upon accepting a Assurance of Voluntary Compliance, a reprimand, and eight additional CEUs, the subject survey was required to provide five recent surveys from within a month of the ISC. The subject surveyor provided the surveys within two hours and proved that what was done in 2006 was exact opposite of what he did today. Mr. Merten would recommend accepting the AVC, reprimand and additional hours of CEUs. Mr. Kwan moved to accept the recommendation and the motion carried. Mr. Merten and Mr. Garcia abstained from voting. The surveyor in this complaint is Brian Salter, RPLS #5597

c. Request to deem complaint frivolous

i. 14-43

Subject surveyor is requesting this complaint be deemed frivolous because it was made for the purpose of harassment and was retaliatory tactic because the surveyor would not do platting job for cost of normal survey job. This involved two separate tracts of land, part was platted, part was a metes and bounds tract. The surveyor wrote a metes and bounds description in the entirety of both tracts together. The title company requested they be separated as a metes and bounds portion and platted lot as the other portion. The underwriter asked for a replat. Surveyor said that was not what was agreed upon. The title

company did not express themselves well and turned into a communication problem. Mr. Garcia moved to deem the complaint frivolous. The motion was seconded and carried.

ii. 17-07

This complaint had been heard previously. The Complaint Review Panel agreed to the dismissal of this complaint. The complaint involved a contractual issue. The surveyor requests the complaint be deemed frivolous because the complaint is based on allegations beyond the jurisdiction of the Board under the Act and is considered harassment as outlined in 661.63(d)(4). Mr. Kwan moved to deem the complaint frivolous. The motion was seconded and carried.

The Chair called for a break at 10:21 a.m.

The meeting was reconvened at 10:47 a.m.

4. Committee Reports

a. Executive Committee –Jon Hodde, Chair

- i. Election of assistant presiding officer in accordant with Occupations Code, section 1071.055(b) – Jon Hodde

Mr. Hodde noted that Mr. Garcia was the current vice-chair but as his term has ended and we are awaiting his replacement, a new vice-chair must be appointed. Mr. Kwan nominated Mr. Cheatham. The nomination was seconded and carried.

b. Rules Committee – Mary Chruszczak, Chair

In light of the request for public hearing, Mr. Garcia moved that the following items be tabled until the next meeting. The motion was seconded and carried.

- i. Comments received regarding proposed rules
- ii. Language concerning loss of surveyor by surveying firm and permission for firm to continue operations
- iii. Maintaining paper copies with original signatures
- iv. Update on drafting language to improve definition of “surveying” and including use of drones as tools

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

- i. Closed session - Approval of April 2017 exam – review of exam question selection and action

Mr. Hodde informed the member that 25 individuals had taken the exam the Fundamentals of Surveying exam with four passing. The review of the April exam will be done in a closed session and that will occur at the end of the meeting. Mr. Edwards asked how many were scheduled to take the exam in April and the response was approximately 50.

This concluded Mr. Hodde’s report.

d. LSLS Examination Committee – Bill Merten, Chair

Mr. Merten informed the members that a debriefing had occurred with the LSLS examinees. For April, there will be five examinees sitting for the exam.

This concluded Mr. Merten’s report.

e. Continuing Education Committee – Paul Kwan, Chair

- i. Approval of Courses

Mr. Kwan recommended courses for approval to the members. Mr. Garcia moved to approved Mr. Kwan's recommendation. The motion was seconded and approved.

This concluded Mr. Kwan's report.

5. Other Business

- a. Update from Committee formed to rewrite reference waiver – Bill Merten, Paul Kwan

Mr. Merten reported that the committee had accepted the recommendations from the last meeting. He believed that Ms. Jackson had updated the forms and they will be used on the October 2017 examinations. The SIT reference waiver removed the percentage of responsible charge time spent in topographic or construction surveying. Professional surveying activities will be the only professional surveying activities.

This concluded Mr. Merten's report.

- b. Discussion and possible action concerning board investigation of complaints regarding surveys over 10 years of age – Jon Hodde

Mr. Hodde reminded the members that this had been discussed at the last meeting but the members could not vote because it was not on the agenda. Mr. Garcia moved that the Board set up a maximum 10 year statute of repose regarding surveys and anything after 10 years no be subject to Board review. Mr. Gordon, Office of the Attorney General, recommended that this be considered for a rule. Mr. Kwan indicated that this would be a policy statement. Mr. Estrada noted that the Board had previously issued a policy that complaints involving surveys over 10 years would be brought to the Board to determine the detriment to public health and safety. A full investigation would then be required. This motion would amend that policy. The motion was seconded and carried.

- c. Closed Meeting – Consultation with Attorney - Amicus filing in Aderholt v. Bureau of Land Management, Civil Action No. 7:15-cv-00162-O – discussion and possible action

The Chair noted that this item would be moved to the end of the meeting to be discussed during the closed session.

- d. Update from Committee formed to address oil and gas well surveys submitted to the Texas Railroad Commission – Mark Neugebauer

Mr. Neugebauer informed the members that he had spoken with Jerry Elliot at the Railroad Commission. The issue had come up in the past and the Commissioners felt that this was undue burden on the surveyors and the public to submit surveys rather than oil and gas plats to the Commission. Mr. Neugebauer will continue to hold discussions with the Railroad Commission. Mr. Hodde noted that a previous OAG opinion limited what the Board could require the Commission plat to be. Mr. Merten agreed to help Mr. Neugebauer on the committee.

6. Future Agenda Items – Select next meeting date

The next meeting will be on May 26. Mr. Kwan asked that the rule requiring a surveyor to maintain files for 10 years be reviewed to clarify who has ownership of the records, either the firm or the surveyor. Recent complaints have brought this issue to light.

7. Comments from the Public

The Chair called for comments from the public. Hearing none, the Chair then convened the Board in closed session to consult with its attorney under 551.071, Government Code, and we will also review the April 2017 exam. The Board went into closed session at 11:17 a.m.

The Chair ended the closed session and reconvened the regular meeting at 12:14 p.m. The Chair called for a motion to action the April 2017 exam. Mr. Edwards moved to accept the exam. The motion was seconded and carried.

8. Adjourn

Mr. Garcia moved to adjourn the meeting. The motion was seconded and carried. The meeting was adjourned at 12:15 p.m.

EXHIBIT A
CONTINUING EDUCATION
March 3, 2017
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APPLICATION FOR COURSE APPROVAL

Appd Rejd

1. HalfMoon Education Inc.

Land Laws

__x__ _____

Subject Matter: This seminar will cover Texas land use law, obtaining land use approvals, law of adverse possession, eminent domain and condemnation law, surface use and mineral right law and ethical issues in land transactions.

Objectives to be taught: Learners will be able to discuss Texas land use law pertaining to comprehensive planning, subdivision platting, zoning, restrictive covenants and traffic and parking. Learners will understand the principle, statutory law and case law of adverse possession and maintaining/defending against an adverse possession claim. Learners will be able to understand eminent domain powers and be able to participate in a condemnation case. Learners will be able to discuss surface use and mineral right law.

Instructors: James Griffin, Michael DeNuccio, Jim Oliveros, Edward Wilhelm and Rob Killen
7 hours

Motion: JG **Second:** BM _____

2. Larry T. Billingsley

A Journey through the Matrix 2017

__x__ _____

Subject Matter: The revised matrix will be studied and discussed along with the appropriate sections of the rules and the act.

Objectives to be taught: This class will see how the Board has the power to establish the minimum standards and how the violations of the rules will be addressed by the Board.

Instructors: Larry Billingsley
4 hours

Motion: JG **Second:** BM _____

3. Larry T. Billingsley

Let's listen to the Judge

__x__ _____

Subject Matter: Two court cases will be reviewed – State v. Nico – In the Appeals Court and in the Supreme Court and Stribling v. Millican – In the Appeals Court and in the Supreme Court.

Objectives to be taught: In State v. Nico – we will see how the court determined the location and width of a street right-of-way easement. In Stribling v. Millican – we will see how the court ruled in a general description vs a particular description.

Instructors: Larry Billingsley
8 hours

Motion: JG **Second:** BM _____

EXHIBIT A
CONTINUING EDUCATION
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4. International Right of Way Association Chapter 36

Hot Topics in Real Estate and Eminent Domain

__x__ _____

Subject Matter: Jon Kohn will present on surveying right of way with drones. See his presentation summary and bio attached. Other speakers will discuss various right of way issues from TxDOT “Getting to Let”, Texas High Speed Rail Project, Army Corps of engineers “Process when crossing ACOE land”, a speaker from Federal Highway Comm..

Objectives to be taught: Relevant issues pertaining to right of way acquisition. Survey is a part of every Right of Way project. This seminar will cover topics that are relevant to surveyors who are involved with projects for entities with Eminent Domain rights. See attached speaker proposals for qualifications and topics to be discussed.

Instructors: Jonathan Kohn, Kevin Maguire, Clint Harbour, Chrisy Currier, Clay Church, Kelly W. Kading CPG, Susan Dillon Ayers, Partner, Jackson Walker LLP, Travis Kelly
8 hours

Motion: JG **Second:** BM _____

EXHIBIT A
CONTINUING EDUCATION
March 3, 2017
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INDIVIDUAL COURSE APPROVAL

1. Michael L. Lewis, Jr. #5773

A Review of the Rules, Ethics, the Act and a discussion on laws affecting Surveyors _____

Subject Matter: Professional Land Surveying Services Act; General Rules of Procedures and Practices; Standards of Professional Responsibility and Rules of Conduct; Professional and Technical Standards.

Objectives to be taught: Refresh familiarity with the Act and rules. Discuss Ethics and professional responsibility. Update knowledge base to be aware of changes in code and laws that affect the profession and our daily practice.

Instructors: Michael L. Lewis, Jr., RPLS 5773 and Rene Silvas, RPLS, PLS
4 hours or 8 hours

Motion: _____ **Second:** _____

2. Michael Thomas Ritter #3692

ACC Land Surveying Lab, Spring 2016 and U.T. Surveying, Summer 2016 _____

Subject Matter: Surveying Theory and Practice

Objectives to be taught: An introduction to the measurement and determination of boundaries, areas, shapes, location through traversing techniques. Instruction in a variety of adjustment methods using programmed and non-programmed calculators, as well as computers. Methods of traversing and adjustment of errors in accordance with prevailing and applicable professional standards and the standards of the Texas Board of Professional Land Surveying.

Instructors: Michael Thomas Ritter, RPLS
16 hours

Motion: _____ **Second:** _____