

OPEN MINUTES
Professional Land Surveying Division of the
Missouri Board for Architects, Professional Engineers,
Professional Land Surveyors and Professional Landscape
Architects

Monday, January 26, 2015
Truman B Meeting Room
Capitol Plaza Hotel and Conference Center
415 West McCarty Street
Jefferson City, Missouri

The Professional Land Surveying Division of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects was called to order at 8:00 a.m. on Monday, January 26, 2015 in the Truman B Meeting Room, of the Capitol Plaza Hotel and Conference Center, Jefferson City, Missouri. A quorum being present, Chairman Mike Freeman declared the meeting open for business.

Members Present

Michael C. Freeman, Chair of the Division
Dan Govero, Member of the Division
John Michael Flowers, Member of the Division

Others Present

Bob Shotts, Professional Landscape Architect Member and Professional Land Surveyor
Sherry Cooper, Public Member
Christopher Wickern, Professional Land Surveyor
Karen Payne, Board Staff

To better track the order in which items were taken up on the agenda, each item in the minutes will be listed in the order it was discussed in the meeting.

Approval of Minutes

On motion by Dan Govero, the minutes of the November 10, 2014 Professional Land Surveying Division open meeting; the November 20, 2014 Professional Land Surveying Division Open Conference Call; and the December 3, 2014 Professional Land Surveying Division Open Conference Call were approved as submitted. Mike

Flowers seconded the motion. Voting in favor of the motion were Dan Govero and Mike Flowers.

Please note that Board Staff, Laurie Koelling, entered the meeting at 8:15 a.m.

Please note that Executive Director, Judy Kempker, entered the meeting at 8:25 a.m. and departed the meeting at 8:30 a.m.

Discuss the Changes in Section 327.272 Which Became Effective August 28, 2014 Pursuant to the Passage of SB 809 and Further Answer Questions Regarding Who Can Prepare Easements and When and How a Legal Description is used

The Professional Land Surveying Division Members discussed the changes that were made to Section 327.272 which became effective August 28, 2014 pursuant to the passage of SB 809 and questions that have risen regarding the preparing of easements and when and how a legal description is used. Upon discussion, the Professional Land Surveying Division Members determined that this issue would be addressed and re-addressed during the course of their meeting since agenda item numbers 5, 6, 7, and 8 all relate to this subject and they unanimously agreed that they would have a proposed Board Rule to recommend to the full Board prior to the close of this meeting that will give further direction regarding Section 327.272.

In addition, the Professional Land Surveying Division Members reviewed and discussed the email received from Representative Ross regarding the Missouri Association of Electric Cooperatives wanting to change the law to allow any and all easements created or prepared in Missouri by providers of electric, natural gas, communications, water or other utility services be exempt from complying with the law. Upon discussion, Dan Govero made a motion directing Professional Land Surveying Chair, Mike Freeman along with the Board's General Counsel, Curt Thompson; and Executive Director, Judy Kempker to work together to provide a response to Representative Ross. Mike Flowers seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Discuss Email from Chris Wickern, PLS-2000161240, wherein he Requests Clarification for the New Definition of Land Surveyor

Since Mr. Wickern was in attendance at the meeting the Professional Land Surveying Division Members discussed with Mr. Wickern his concerns regarding the definition of Professional Land Surveyor. Upon discussion, Mr. Wickern was thanked for sharing his thoughts regarding Section 327.272 and was advised that the Board would be proposing a rule that would address this issue and no further action was taken.

Discuss Letter Dated December 10, 2014 from Sharrock Dermott (not licensed), Director of Legal Services at the Empire District Electric Company Wherein he is Requesting Additional Information Concerning the Board's Interpretation of Recent Revisions Made to Section 327.272 RSMo

The Professional Land Surveying Division Members discussed the letter dated December 10, 2014 from Sharrock Dermott (not licensed), Director of Legal Services at the Empire District Electric Company wherein he requested additional information regarding Section 327.272 RSMo. Upon discussion, Dan Govero made a motion directing General Counsel, Curt Thompson, to respond to Mr. Dermott based on the Board's proposed Board Rule 20 CSR 2030-15.020 RSMo. Mike Flowers seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Discuss Article Written by Mark W. Nolte, PLS-2424, Entitled "Who Can Describe It?" The Article is to be published in the Journal of the Missouri Bar

Since this also is related to the need for a proposed rule (Board Rule 20 CSR 2030-15.020) the Division Members agreed that the article written by Mark Nolte would be taken into consideration when the proposed rule is drafted later in the meeting.

Review the "Position Paper" that was Ordered and Effected by the Board on November 11, 2014 and then Prepare and Discuss Language Regarding the Changes to Section 327.272, RSMo for Promulgation of a Board Rule

Upon completion of the Professional Land Surveying Division Member's discussion regarding Section 327.272 RSMo, Mike Flowers made a motion to recommend to the full Board the following proposed rule (Board Rule 20 CSR 2030-15.020) be promulgated:

- (1) In accordance with Section 327.272(3) and (4), the subdivision of a parcel of property to create a new parcel and the creation of a new recordable property description for that parcel is considered the practice of professional land surveying. A new recordable property description defined as a description for any parcel of land that is not or has not previously been identified in the public record.**
- (2) A permanent easement is a recordable document for the acquisition and conveyance of property rights. Creating a permanent easement encumbers a parcel of property and affects real property rights. A professional land surveyor shall locate the boundary that an easement is based upon.**
- (3) The following services are not required to be performed by a professional land surveyor because the location of boundary lines are not affected:**

- (A) When the only property right being acquired or conveyed is access rights.
- (B) When the only property right being acquired is a temporary easement.
- (C) When the entire property is being acquired, and the property description is being copied from the last deed of record.
- (D) When at least one boundary of the easement is contiguous with the property line in accordance with paragraph 2 above and is uniform with.

It was also the consensus of the Division Members that once the Board Rule goes into effect there would no longer be a need for the "Position Paper" to be posted on the Board's website. Dan Govero seconded the motion and it unanimously carried. Voting in favor of the Motion were Mike Flowers and Dan Govero.

Discuss Proposed Change to Section 327.041.3 RSMo as Proposed by MSPS

Upon discussion of the proposed changes to Section 327.041.3 RSMo by the Missouri Society of Professional Surveyors (MSPS) Dan Govero made a motion to notify MSPS and request they not pursue their proposal until the Board has promulgated proposed Rule 20 CSR 2030-15.020. Mike Flowers seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Please note that visitor, Christopher Wickern, departed the meeting at 10:20 a.m.

Discuss the Legal Principles/Public Lands Course Syllabus Provided by Dr. Richard Elgin

The Professional Land Surveying Division Members discussed the "Legal Principles/Public Lands" course syllabus provided by Dr. Richard Elgin. Upon discussion Dan Govero made a motion to approve Dr. Elgin's syllabus and directed Executive Director, Ms. Kempker, to send a letter to all the universities that are on the Board's "Acceptable Land Surveying Coursework" list using Dr. Elgin's "Overview" as reference and state that the Board had approved the enclosed syllabus and that the Board highly recommends they use the syllabus in teaching their "Legal Principles of Surveying" or "Legal Aspects of Boundary Survey" courses. Mike Flowers seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Please note that Board Staff, Laurie Koelling, departed the meeting at 11:20 a.m.

Please note that Professional Landscape Architect Member and Professional Land Surveyor, Bob Shotts, departed the meeting at 11:30 a.m.

Discuss Dr. Richard Elgin's Suggestions Regarding the New Percentages on the Missouri State Specific Examination

The Professional Land Surveying Division Members reviewed the new percentages regarding the content of the Missouri State Specific examination prepared by Dr. Richard Elgin. Upon review, Dan Govero made a motion to approve the percentages as were presented at the meeting. Mike Flowers seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Discuss Results of the Survey Review Course Work List

Mike Flowers reported in further detail the "Survey Review Course Work" list that had been prepared by Board staff. Mr. Flowers stated that the "Legal Principles of Surveying" courses that have been taken by Land Surveyors-in-Training (LSIT) in the past indicate a lack of knowledge of the Missouri US Public Land Survey System (USPLSS) and General Land Office (GLO) records and that if exam candidates were given Dr. Elgin's syllabus "The U.S. Public Land Survey System and Legal Aspects of Boundary Surveying" and "The U.S. Public Land Survey System for Missouri" they would be much more prepared in taking the exam. This was given as informational only and no further action was taken regarding this matter.

Discuss Mike Freeman's Research Regarding Licensees Being Prepared for Taking the Exam for Licensure

Mike Freeman reported that he is in the process of collecting information in relation to candidates being prepared to take the exam for licensure; however he did note that he found "no smoking gun" indicating that one course/instructor was any different than another and further stated that the only conclusion he could draw from his limited information was that the current coursework is not adequate and that additional surveying coursework is needed. Mr. Freeman also stated that it is his opinion that in addition to the two hours in legal aspects, applicants should be required to acquire two hours in USPLSS. This was given as informational purposes only and no further action was taken regarding this matter.

Discuss Proposed Amendments to 20 CSR 2030-8.020 Professional Land Surveyor – Professional Development Units; Specifically Pertaining to Nonpersonal Contact Activities

Next, the Professional Land Surveying Division Members discussed Board Rule 20 CSR 2030-8.020 and whether or not they felt there was a need to propose a change to the number of non-personal contact activities of professional development units that a licensee is required to have to renew their license. Upon discussion, Mike Flowers

made a motion not to change the current requirement of twelve (12) pdus in non-personal contact activities; however to recommend to the full Board to proceed with the proposal to change Board Rule 20 CSR-2030-8.020(1)(A) RSMo to read “Of the required professional development units, licensed professional land surveyors shall complete a minimum of **two (2)** professional development units in **Surveying Standards** (20 CSR 2030, Chapters 16 and 17, and/or Chapters 60 and 327 RSMo) during the **two (2)**-year period immediately preceding renewal. Dan Govero seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Update from Mike Freeman Regarding Preparation of a FAQ Paper to be published on the Board’s Web Site Regarding the Changes to Section 327.272, RSMo

Mike Freeman reported that he continues to gather questions in preparation of a FAQ Paper regarding the Changes to Section 327.272 RSMo. This was given for informational purposes only and no further action was taken.

Review and Discuss NCEES Committees and Task Forces’ List of Changes and Proposed Motions in Preparation for the Upcoming Central Zone Meeting

The Professional Land Surveying Division members then reviewed and discussed the National Council of Examiners for Engineering and Surveying (NCEES) Committees and Task Forces’ list of changes and proposed motions in preparation for the upcoming Central Zone meeting. Upon discussion, Dan Govero made a motion to recommend to the full Board to oppose the language on page five of the list under Future of Surveying Task Force “The task force will evaluate the current state of the surveying profession in terms of what NCEES can do to mitigate the low number of candidates seeking licensure as professional surveyors and to better promote the value of a career in the surveying profession” as well as the sentence “It will also evaluate whether state-specific exams can be transitioned to region specific exams or be eliminated”. Mike Flowers seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Recess

At approximately 2:55 p.m., the Members of the Professional Land Surveying Division recessed its open meeting in order for the full Board to convene their meeting in the Lincoln meeting room.

Reconvened

At approximately 4:30 p.m., the Professional Land Surveying Division reconvened its open meeting to continue their discussion of remaining items on its agenda.

Possible Changes to the Board Rules and/or Chapter 327 RSMo (For Information or Discussion)

Nothing further was discussed regarding the Board Rules or Chapter 327 RSMo.

Discussion Regarding the Signing of the Memorandum of Understanding (MOU) Between the Board and the Department of Agriculture (Formerly MOU between the Board and the Department of Natural Resources)

NOTE: Richard Fordyce, Director of the Missouri Department of Agriculture, Michael Warrick General Counsel for the Department of Agriculture, and Darrell Pratte, PLS-2126, State Land Surveyor, are Scheduled to Meet with the Full Board on Tuesday, January 27, 2015

In conclusion, the Professional Land Surveying Division Members discussed the Memorandum of Understanding (MOU) between the Board and the Department of Agriculture. Upon discussion, the Division Members directed Board staff to make the Professional Land Surveying Division's recommended changes on the draft of the MOU that was provided at the meeting in preparation of their meeting with Richard Fordyce, Michael Warrick, and Darrell Prate at the full Board meeting on February 27, 2015.

Motion to Close

At 4:40 p.m., Chairman Freeman called for a motion to close the meeting to the general public for the purpose of discussing confidential or privileged communications between this agency and its attorney as well as to discuss pending litigation and complaint matters. Dan Govero made a motion that the meeting be closed to the general public pursuant to Chapter 610.021 subsection (14) and 324.001.8 and 324.001.9, RSMo for the purpose of discussing investigative reports, complaints, audits and/or other information pertaining to licensees or applicants; Chapter 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under Chapter 610.021 RSMo which authorizes this agency to go into closed session during those meetings. The motion was seconded by Mike Flowers and unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

Reconvene in Open Session

At 5:45 p.m., the Professional Land Surveying Division Members reconvened in open session for the purpose of adjourning.

Adjournment

There being no further discussion, a motion was made by Dan Govero and seconded by Mike Flowers to adjourn. The motion carried unanimously. The meeting adjourned at 5:45 p.m.

ATTEST:

Executive Director

Approved by Board on: _____