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, November 9, 2015 in the Fiji Ballroom, of the Ramada Plaza Hotel and Oasis Convention Center, Springfield, 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

Judy Kempker, Executive Director
Loyd Todd, Professional Land Surveyor #2122
Karen Payne, Board Staff
Laura Stieferman, 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 August 3, 2015 Professional Land Surveying Division Open Meeting 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 Investigator, Dawn Wilde, entered the meeting at 8:05 a.m.
Report from Mike Flowers on the Meeting Held in Fort Leonard Wood Between Himself and Dr. Richard Elgin, with Captain Andrew Taylor, Civil Instructors, Ozark Technical College and all Four Branches of the Armed Forces Including Army Senior Enlisted Instructors Regarding the 12T Technical Engineer Program of Instruction

Board Member, Mike Flowers, reported on the meeting Dr. Richard Elgin and himself attended along with Captain Taylor, the coronel, civilian instructors, OTC representatives and other representatives from all four branches of the armed forces including army senior enlisted instructors attended in regards to the requirements for licensure as a Professional Land Surveyor in Missouri as well as the type of education being provided by the army. Mr. Flowers stated that the purpose of the meeting was to determine if their 12T Technical Engineer program would be acceptable in meeting the 12 hour surveying education requirements for licensure as a Professional Land Surveyor in Missouri. Mr. Flowers stated that the coursework being offered by the army was a way to train and prepare individuals for a career upon returning to civilian life. Upon reviewing the course material presented it was determined by Mr. Flowers and Dr. Elgin that the sixteen week program was primarily geared toward construction surveying and would not satisfy the twelve hour surveying coursework requirements for licensure. Mr. Flowers further stated that upon enlightening those in attendance of the state statutes and rules and regulations governing the surveying profession it was determined that Ozark Technical College (OTC) would be working on developing a surveying course to present to the Board for approval that would possibly be acceptable as a “Surveying I” course. Prior to the close of the meeting Mr. Flowers and Dr. Elgin provided OTC with the course syllabus for the Missouri State Specific examination prepared by Dr. Elgin as a guide to develop such a program. This was given as informational purposes only and no other action was taken regarding this matter.

Discuss Status of, or Potential Changes to the Board Rules and/or Chapter 327, RSMo, Regarding the Professional Land Surveying Profession

Executive Director, Ms. Kempker, gave a brief update on the status of the Board’s pending rule changes and stated that she would be giving a more detailed report at the full Board’s open meeting on November 10th. Nothing further was discussed regarding the Board Rules or Chapter 327 RSMo.

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

Please note that Board Investigator, Dawn Wilde, departed the meeting at 8:30 a.m.
Review and Discussion of Open Items on the Full Board's November 9 and 10, 2015 Open Agenda

Next, the Professional Land Surveying Division members reviewed the full Board's open agenda item number nine in regard to an email received from Professional Land Surveyor, Mike Gray, dated October 16, 2015 in which he asked for the Board's opinion in regards to responding to requests for a bid on survey projects from Architects and Professional Engineers and whether or not it was ethical for them to promote bids for other professional services. Upon discussion, Mike Flowers made a motion to make a recommendation to the full Board directing Ms. Kempker to respond to Mr. Gray by stating that the bidding of professional services is outside the jurisdiction of the Board. However, the provisions in Sections 8.285 to 8.291 allow the retention of such professionals outside the regular bidding process but does not prohibit the retention of them through competitive bidding. In fact, the last provision of Section 8.291 provides: "The provisions of sections 8.285 to 8.291 shall not apply to any political subdivision which adopts a formal procedure for the procurement of architectural, engineering and land surveying services." In addition, Ms. Kempker is to state that no licensee who submits a bid would be subject to discipline by the Board for submitting a bid. Dan Govero seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

The Land Surveying Division members also discussed the email received from Jim Anderson, PLS #1726, in which he stated that the Missouri Society of Professional Surveyors (MSPS) was contemplating a possible change to Chapter 327.314 RSMo that would allow the land surveying exam to be taken before the applicant had completed their four years of experience under the supervision of a licensed Professional Land Surveyor. Upon discussion, Dan Govero made a motion to make a recommendation to the full Board directing Executive Director, Ms. Kempker, to respond to Mr. Anderson by stating that the Board is supportive of the early taking of the Fundamentals of Surveying exam (FS) but NOT of the Principles of Surveying (PS) exam as the members feel the PLS applicants still need to have four full years of experience PRIOR to taking the exam. Mike Flowers seconded the motion and it unanimously carried. Voting in favor of the motion were Dan Govero and Mike Flowers.

In conclusion, the Land Surveying Division members discussed the email dated October 26, 2015 received from Greg Hasty, PLS#1985, in which he requested the Board to issue a position paper to define the practices relating to land use regulation in Missouri as it relates to the location of improvements. Upon discussion, Mr. Flowers made a motion to make a recommendation to the full Board directing Executive Director, Ms. Kempker, to respond to Mr. Hasty by stating that unlike several licensing boards that have recently obtained authority to issue informal opinions, this Board does not have statutory authority to issue such "opinions" and to direct his attention to Chapter 327.272.1, RSMo, which defines Professional Land Surveying as “…the person…who renders or offers to render, or holds himself or herself out as willing or able to render, or perform any service or work, the adequate
performance of which involves the special knowledge and application of the principles of land surveying, mathematics, the related physical and applied sciences, and the relevant requirements of law, all of which are acquired by education, training, experience and examination, that affect real property rights on, under or above the land and which service or work involves: (1) the determination, location, relocation, establishment, reestablishment, layout, or retracing of land boundaries and positions of the United States Public Land Survey System;” (Emphasis added).

Furthermore, unless the Planning and Zoning personnel are licensed as Professional Land Surveyors, or working under the direct personal supervision of a licensed Professional Land Surveyor, and if they determine the location of boundary lines, corner monuments and real property rights, their actions could be considered a violation of the above cited statute, by practicing professional land surveying without a license. If the boundary determination by unlicensed personnel is incorrect, his/her error could require zoning variances or removal or relocation of improvements and possibly subject them and/or the zoning authority to liability for damages.

It is the practice in many jurisdictions to establish ordinances containing specific steps (i.e. obtaining a boundary survey, site plan and field staking by a licensed Professional Land Surveyor) before the issuance of use permits. Planning and Zoning personnel would only confirm that the applicant has met the zoning requirements and that the construction site is properly marked.

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

Please note that Professional Land Surveyor, Loyd Todd, departed the meeting at 9:45 a.m.

**Motion to Close**

At 9:50 a.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 3:40 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 3:40 p.m.

**ATTEST:**

__________________________________________
Executive Director

Approved by Board on: ________________