



FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS NEWSLETTER



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Carrie Flynn

MEETING DATES & PLACES

GIS/GPS Committee Meetings

October 9, 1995 - Tallahassee

November 6, 1995 - Orlando

Board Meetings

January 24-25, 1996 - Orlando

May 23-24, 1996 - Tampa

September 26-27, 1996 - Orlando

BOARD OFFICE

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NOTE: A considerable clarification of Chapter 61G17 became effective on May 31, 1995. To obtain a copy of the most recent version of Chapter 61G17, please contact the Board office. What you do not know may still hurt you.

This is the Board's first own newsletter. The Board decided to produce it at the Board Meeting on September 20, 1995. The Board's newsletter will not be as fancy as the newsletter issued by the Department of Business and Professional Regulation on behalf of the Board, but the Board hopes it will be more frequent. The Board also hopes that the Department will mail the Board's newsletter to each licensee soon after each meeting. This is the Board's attempt to communicate better with surveyors and mappers, many of whom are not familiar with all that the Board does at each meeting.

On September 18, 1995, the Board conducted a workshop and a seminar. The workshop focused on proposed revisions to Chapter 177, Florida Statutes. The seminar focused on proposed revisions to MTS. Instructors who teach MTS were required to attend the seminar.

On September 19, 1995, the Board heard four disciplinary cases that were being prosecuted against licensees by the Department of Business and Professional Regulation. The cases involved alleged misconduct and violations of MTS sufficient to constitute negligence or incompetence in the practice of surveying and mapping. Later, the Board conducted seven informal hearings on application denials.

Finally, on September 20, 1995, the Board debated and voted on recommended changes to rules on MTS and rules on penalties to be imposed in disciplinary cases. Then the Board considered reports on the work that is done between meetings by the Board's various committees, including the application committee, the continuing education committee, the probation committee, the probable cause panel, and the examination committee, among others. Later, the Board considered numerous letters and staff reports.

The meeting began on Monday morning at 8:30 a.m., and ended on Wednesday afternoon at about 2:45 p.m. In all, the Board met for about twenty-two hours. Board members are entitled to receive \$50 a day for Board meetings, plus travel and hotel expenses. A number of Board members do not request compensation.

CHANGES TO MTS ARE PROPOSED

For almost a year, the Board has been considering changes to MTS to reflect the fact that photogrammetrists are now licensed under Chapter 472. Board member Dave Gibson has been leading the way by drafting the proposed revisions and by conducting input sessions around the state. In addition, the Board itself has been meeting with MTS instructors statewide for their input as well. The recommended changes were voted on by the Board at the September meeting. The Board hopes that they will be published in the Florida Administrative Weekly by the end of October. Once they are published, people will have twenty-one days from the date of publication in which to request a hearing.

If a hearing is requested, it will be conducted by the Board's delegate in front of a court reporter. A transcript will be made, and the Board will consider the comments received at the hearing before making any final decisions on the proposed changes. If no hearing is requested, the changes will be filed automatically and they will become effective twenty days after that filing.

By and large, the proposed changes are more a matter of restructuring the format of already existing rules than they are substantive. However, some substantive changes are proposed as well. The key substantive changes proposed are:

- Licensees will be able to attach a report to their maps and to include in the report all the text that currently has to appear on the map itself;
- Licensees will no longer have to certify that the surveys meet MTS;
- Business entities will have to include their certificate of authorization numbers;
- All boundary surveys will have to be accompanied by a map, and the following statement will have to appear on either the map or in the report of a boundary survey: This survey does not reflect or determine ownership.

You may get a copy of the proposed changes by contacting the Board office after October 15th. They will be sent to you as soon as possible after your request. They will also be sent to MTS instructors automatically, as soon as they are ready to be published.

COMMITTEE TO CONSIDER GIS/GPS

Over the next two months, several members of the Board will be meeting with GIS/GPS practitioners and surveyors and mappers to explore the interplay between the two professions, and to consider how they impact on each other. The meetings were inspired by the response of the GIS/GPS profession to the most recent revisions to Chapter 472, whereby photogrammetric mapping came under the Board's jurisdiction. One of the considerations will probably focus on whether and, if so, the extent to which GIS/GPS is the practice of surveying and mapping.

The meetings are scheduled to take place on October 9 in Tallahassee and November 6 in Orlando. They are open to the public, and further information about them may be obtained from the Board office. Committee members are Maggie Weidener, Gene Stoner, Gail Oliver, Dave Gibson, and Chuck Woodward.

CHANGES PROPOSED TO PENALTY RULES

One of the Board's functions is to hear disciplinary cases. The cases are presented to the Board by a prosecutor employed by the Department of Business and Professional Regulation (not the Board) based on an administrative complaint that the Department has filed against a licensee for an alleged violation of the laws or rules which govern the practice of surveying and mapping. Upon finding that a licensee is guilty of the violation, the Board must apply penalties consistent with rules that appear in Chapter 61G17-9 of the Florida Administrative Code.

At its September Board meeting, the Board proposed to change some of those penalties. As with proposed changes to MTS, the proposed penalty rule changes must be published in the Florida Administrative Weekly, and people will have twenty-one days from the date of publication to ask for a hearing on them. If a hearing is requested, it will be held by the Board's delegate, a transcript will be made, and the Board will consider the comments of the audience, as recorded on the transcript, before making its final determination.

The major proposed changes include:

- In certain instances, the Board will allow the Department to issue a Notice of Noncompliance to a licensee rather than an administrative complaint. If the licensee corrects the problem, no disciplinary action will be taken;
- In other instances, the Board will allow the Department to issue a citation. If the licensee accepts the citation and pays the fine, no further disciplinary action will be prosecuted by the Department against the licensee for that violation. A licensee's first time violation of MTS, for instance, could result in a fine of \$100 per violation so long as the violations do not rise to the level of negligence or incompetence.

Other proposed changes include:

- The usual recommended penalty for failure to pay a final judgement entered against a licensee in any civil proceeding involving the licensee's practice of surveying and mapping shall be revocation and a fine of \$2500;
- The usual recommended penalty for failure to comply with a subpoena issued in a disciplinary case shall be suspension and a \$1000 fine;
- The usual recommended penalty for failure to comply with a final order of the Board shall also be revocation and a fine of \$2500;
- The usual recommended penalty for failure to respond to an audit of continuing education or submit proof of continuing education shall be suspension and the payment of a fine of \$50 a day for every day of noncompliance.

A copy of all the proposed changes are available from the Board office after October 15th.

RULES EXPRESSLY PROHIBIT GIFTS, "KICKBACKS" AND WASHOUT SURVEYS

Recent revisions to Rule 61G17-2.001 expressly state that the receipt of gifts, favors or "kickbacks" constitutes misconduct in the practice of surveying and mapping. Likewise, the revisions specifically prohibit the practice known as the "washout" survey -- one where "...a licensee agrees to accept payment for a surveying and mapping service only upon the contingency of a future event other than the completion of the survey..." (i.e. the closing of a real estate transaction). Although the Board receives a number of letters from licensees complaining about the illegal practice by their peers, the Board can do nothing more than what it has done by creating the rules. It is now up to the profession to report violations to the Department of Business and Professional Regulation, which is the only entity legally empowered by the Legislature to prosecute violators.

DISCIPLINARY ACTION REPORTED

At its September meeting, the Board accepted settlement stipulations between the Department of Business and Professional Regulation and the following licensees against whom the Department had filed administrative complaints: C.F. Deuel (LS 0000827); Mason Wharton (LS 0003029); and Gordon F. Killion (LS 00003138). The Board rejected a proposed settlement stipulation between the Department and Norman A. Pahl (LS 0001349) but offered a counterproposal which, if accepted by both the Department and Pahl, will resolve the disciplinary case between them.

At a probation committee meeting, the Board issued an Order to Show Cause why the license of Richard Yarb (LS 0003415) should not be suspended for failure to comply with the terms of the final order entered against him in Case Nos. 91-05599 and 90-16461 and for numerous violations of MTS on the surveys he submitted for review. Also, the committee ruled that Gary Burden (LS 0003691) and Tommie Logan (LS 0002498) were in compliance with the terms of their probation, but that Thomas E. Snyder (LS 0004319), Stephen Sutherland (LS 0002993), and Ned Wilson (LS 0004818) were not. The Committee lifted the stay on the suspension of the licensees of Snyder, Sutherland and Wilson. Their licenses are now suspended.

In other action, the Board accepted the voluntary relinquishment of the license of John S. Short (LS 0001721) in disciplinary Case No. 92-11348.

REMINDER

Please remember that the legislature now requires all licensees to post a sign in their offices if they do not carry professional liability insurance. The law became effective on July 1, 1995.

Board of Professional Surveyors and Mappers
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