

MINUTES
GENERAL ISSUES COMMITTEE MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
VIA VIDEOCONFERENCE
November 19, 2020—9:00 AM

Discuss and Possibly Act on the Following Agenda Items:

1. Preliminary Matters.

A. Call to Order.

Mr. Ademola Adejokun, P.E., Chair, called the General Issues Committee meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 9:00 a.m. via Videoconference. (NOTE: all votes are unanimous unless noted.)

B. Roll Call.

Ms. Bodden called the roll. It was noted for the record that a quorum was present.

The following Committee members were present:

Ademola Adejokun, P.E.	Chair
Albert Cheng	Public Member
Catherine Norwood, P.E.	Member
Dr. Marguerite McClinton Stoglin	Public Member

Veena Mohan, Assistant Attorney General and General Counsel for the Board, was present via Videoconference to provide legal counsel to the Board.

The following staff members were present:

Lance Kinney, Ph.D., P.E.	Executive Director
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Jeff Mutscher	Chief Financial Officer
Janet Sobieski	Director of Operations
Mason Schoolfield	Lead Systems Developer
Cristabel Bodden	Executive Assistant

C. Excuse absent Committee members.

The following Committee members were absent:

Dr. Marguerite McClinton Stoglin	Public Member
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It was MOVED/SECONDED (Ademola) to excuse Dr. McClinton Stoglin from the General Issues Committee meeting. A vote was taken and the MOTION PASSED.

D. Welcome Visitors.

Lamberto Ballí, P.E., Board Member; Edmundo Gonzalez, P.E., R.P.L.S., Advisory Member; Mike Grogan, R.P.L.S., L.S.L.S., General Land Office; Collen Johnson, R.P.L.S., Board Member; Victor Mendez, R.P.L.S., Texas Society of Professional Surveyors Board Member; Dr. Sina K. Nejad, P.E., P.Eng., Board Member; Mark Neugebauer, R.P.L.S., L.S.L.S., Board Member and R. Kyle Womack, P.E., Retired, Advisory Member, were present via Videoconference.

E. Public Comment.

Mr. Grogan came before the Committee and commented on agenda item #20, §661.57 – Land Surveying Firms Compliance. Mr. Grogan clarified he was only speaking on his own behalf, not on his employer’s. Mr. Grogan shared his opposition to the proposed rule change, indicating his concern for local firms in small communities and the potential for larger firms to open branch offices and indicating the importance of local firms knowledge and practice.

Mr. Adejokun thanked Mr. Grogan for his comments. Mr. Adejokun stated that the board previously held several rule hearings and posted the rules for formal public comment and asked if Mr. Grogan had provided commentary during that time. Mr. Grogan stated that he did not.

2. Adopt or Propose Amendment to 22 Tex. Admin. Code Chapter 131, Subchapter A – Scope and Definitions.

• **§131.1 – Purpose and Duties.**

Dr. Kinney stated that Chapter 131, Subchapter A – Scope and Definitions, rule §131.1 – Purpose and Duties had gone through the rulemaking process and was ready for adoption. This rule was previously proposed to the Board, there were two rule hearings, had been reviewed by the Governor’s Office, was posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter A – Scope and Definitions, rule §131.1 – Purpose and Duties as presented. A vote was taken and the MOTION PASSED.

3. Adopt or Propose Amendment to Add 22 Tex. Admin. Code Chapter 131, Subchapter A – Scope and Definitions.

• **§131.2 – Definitions.**

Dr. Kinney stated that Chapter 131, Subchapter A – Scope and Definitions, rule §131.2 – Definitions had gone through the rulemaking process and was ready for adoption. This rule was previously proposed to the Board, there were two rule hearings, had been reviewed by the

Governor's Office, was posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter A – Scope and Definitions, rule §131.2 – Definitions as presented. A vote was taken and the MOTION PASSED.

4. Adopt or Propose Amendments to 22 Tex. Admin. Code Chapter 131, Subchapter B – Administration and the Board.

- **§131.3 – Headquarters of the Board.**
- **§131.5 – Board Seal.**
- **§131.7 – Organization of the Board.**
- **§131.9 – Officers of the Board.**
- **§131.11 – Board Member Responsibilities and Duties.**
- **§131.15 – Committees.**

Dr. Kinney stated that Chapter 131, Subchapter B – Administration and the Board had gone through the rulemaking process and was ready for adoption. The rules were previously proposed to the Board, there were two rule hearings, had been reviewed by the Governor's Office, was posted on the Texas Register for public comment and no public comments were received except for rule §131.15 – Committees, which received one public comment.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter B – Administration and the Board rules as presented except for rule §131.15 – Committees. A vote was taken and the MOTION PASSED.

Dr. Kinney stated that the public comment for rule §131.15 – Committees involved the Surveying Advisory Committee and requested more clear inclusion of the committee in the rules. The Surveying Advisory Committee is required by statute and Occupations Code 1001.216.

Dr. Kinney stated that there is a section in the rules about standing committees and a section on advisory committees. The reason the Surveying Advisory Committee is not a standing committee is that standing committees are generally held to be committees made up of Board members. However, there are advisory committees which is what the Surveying Advisory Committee is.

After review of the public comment, the Surveying Advisory Committee recommended a change to include the advisory committee by name in the rule. It was reviewed with Ms. Mohan and is seen as ministerial or not substantive so the change can be made during adoption without reproposal.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter B – Administration, rule §131.15 – Committees as amended. A vote was taken and the MOTION PASSED.

5. Adopt or Propose Amendments to 22 Tex. Admin. Code Chapter 131, Subchapter C – Board Staff.

- **§131.31 – Executive Director.**
- **§131.37 – State Contract Guidelines.**

Dr. Kinney stated that Chapter 131, Subchapter C – Board Staff rules had gone through the rulemaking process and were ready for adoption. These rules were previously proposed to the Board, there were two rule hearings, have been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter C – Board rules as proposed. A vote was taken and the MOTION PASSED.

6. Adopt or Propose Amendments to 22 Tex. Admin. Code Chapter 131, Subchapter D – Meetings.

- **§131.41 – Meetings.**
- **§131.43 – Public Participation.**
- **§131.45 – Regular Board Meetings.**

Dr. Kinney stated that Chapter 131, Subchapter D – Meetings rules had gone through the rulemaking process and were ready for adoption. The rules were previously proposed to the Board, there were two rule hearings, have been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter D – Meetings rules as proposed. A vote was taken and the MOTION PASSED.

7. Adopt or Propose Amendment to 22 Tex. Admin. Code Chapter 131, Subchapter G – Administration.

- **§131.85 – Board Rules Procedures.**

Dr. Kinney stated that Chapter 131, Subchapter G –Administration rule had gone through the rulemaking process and was ready for adoption. This rule was previously proposed to the Board, there were two rule hearings, had been reviewed by the Governor’s Office, was posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter G –Administration rule as proposed. A vote was taken and the MOTION PASSED.

8. Adopt or Propose Amendment to 22 Tex. Admin. Code Chapter 131, Subchapter H – Engineering Advisory Opinions.

- **§131.101 – Subject of an Advisory Opinion.**
- **§131.103 – Request for an Advisory Opinion.**

Dr. Kinney stated that Chapter 131, Subchapter H – Engineering Advisory Opinions rules had gone through the rulemaking process and were ready for adoption. The rules were previously proposed to the Board, there were two rule hearings, have been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt Chapter 131, Subchapter H – Engineering Advisory Opinions rules as proposed. A vote was taken and the MOTION PASSED.

9. Adopt Repeal of 22 Tex. Admin. Code Chapter 131, Subchapter C – Board Staff.

- **§131.33 – Career Ladder.**

Dr. Kinney stated that Chapter 131, Subchapter C –Board Staff, rule §131.33 had gone through the rule repeal process and was ready for adoption of the repeal. This rule was previously proposed to the Board, had been reviewed by the Governor’s Office, was posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 131, Subchapter C – Board Staff, rule §131.33. A vote was taken and the MOTION PASSED.

10. Adopt Repeal of 22 Tex. Admin. Code Chapter 131, Subchapter D – Meetings.

- **§131.49 – Rules of Order.**

Dr. Kinney stated that Chapter 131, Subchapter D –Meetings, rule §131.49 had gone through the rule repeal process and was ready for adoption of the repeal. This rule was previously proposed to the Board, had been reviewed by the Governor’s Office, was posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 131, Subchapter D – Meetings, rule §131.49. A vote was taken and the MOTION PASSED.

11. Adopt Repeal of 22 Tex. Admin. Code Chapter 131, Subchapter G – Administration.

- **§131.81 – Definitions.**

Dr. Kinney stated that Chapter 131, Subchapter G –Administration, rule §131.81 had gone through the rule repeal process and was ready for adoption of the repeal. This rule was previously proposed to the Board, had been reviewed by the Governor’s Office, was posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 131, Subchapter G – Administration, rule §131.81. A vote was taken and the MOTION PASSED.

12. Adopt Repeal of 22 Tex. Admin. Code Chapter 661, Subchapter A – The Board.

- **§661.1 – Name.**
- **§661.2 – Headquarters.**
- **§661.3 – Chair.**
- **§661.4 – Vice Chair.**
- **§661.5 – Executive Director.**
- **§661.7 – Executive Committee.**
- **§661.8 – Standing Committees.**
- **§661.9 – Special Committees.**
- **§661.10 – Financial.**
- **§661.11 – Vacancies.**

Dr. Kinney stated that Chapter 661, Subchapter A – The Board had gone through the rule repeal process and was ready for adoption of the repeal. These rules were previously proposed to the Board, had been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 661, Subchapter A – The Board. A vote was taken and the MOTION PASSED.

13. Adopt Repeal of 22 Tex. Admin. Code Chapter 661, Subchapter B – Meetings.

- **§661.23 – Notice of Meetings.**
- **§661.24 – Proceedings.**

Dr. Kinney stated that Chapter 661, Subchapter B – Meetings had gone through the rule repeal process and was ready for adoption of the repeal. These rules were previously proposed to the Board, had been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 661, Subchapter B – Meetings. A vote was taken and the MOTION PASSED.

14. Adopt Repeal of 22 Tex. Admin. Code Chapter 661, Subchapter C – Definition of Terms.

- **§661.31 – Definitions.**

Dr. Kinney stated that Chapter 661, Subchapter C – Definition of Terms had gone through the rule repeal process and was ready for adoption of the repeal. This rule was previously proposed to the Board, had been reviewed by the Governor’s Office, was posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 661, Subchapter C – Definition of Terms. A vote was taken and the MOTION PASSED.

15. Adopt Repeal of 22 Tex. Admin. Code Chapter 661, Subchapter D – Applications, Examinations, and Licensing.

- **§661.41 – Applications.**
- **§661.42 – Fees.**
- **§661.43 – References.**
- **§661.44 – Rejections.**
- **§661.45 – Examinations.**
- **§661.46 – Seal and Oath.**
- **§661.47 – Reciprocal Registration.**
- **§661.50 – Surveyor In Training (SIT) Experience Requirements.**
- **§661.51 – Surveyor-In-Training Education Requirement.**
- **§661.52 – Inactive Status.**
- **§661.53 – Active Duty Military.**
- **§661.55 – Registration of Land Surveying Firms.**
- **§661.56 – Land Surveying Firm Renewal and Expiration.**

Dr. Kinney stated that Chapter 661, Subchapter D – Applications, Examinations, and Licensing had gone through the rule repeal process and were ready for adoption of the repeal. These rules were previously proposed to the Board, have been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received except for §661.45 – Examinations.

Dr. Kinney stated that during the Licensing Committee meeting yesterday, the new rule §134.67 concerning surveying examinations was discussed. This rule was edited and recommended to be repropose by the committee, so the board will need to leave the current rule in place in the meantime. The rule is §661.45 – Examinations. Dr. Kinney proposed to adopt all of the rule

repeals in Agenda Item #15 except rule §661.45. This one would be left in place and not repealed until the other rule is adopted.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 661, Subchapter D – Applications, Examinations, and Licensing rules as presented except for rule §661.45 – Examinations. A vote was taken and the MOTION PASSED.

16. Adopt Repeal of 22 Tex. Admin. Code Chapter 661, Subchapter E – Contested Cases.

- **§661.60 – Responsibility to the Board.**
- **§661.62 – Complaint Process.**
- **§661.63 – Frivolous Complaints.**
- **§661.64 – Computation of Time.**
- **§661.65 – Agreements to be in Writing.**
- **§661.67 – Conduct and Decorum.**
- **§661.68 – Appearances Personally or by Representative.**
- **§661.86 – Final Decisions and Orders.**
- **§661.87 – Administrative Finality.**
- **§661.88 – Motion for Rehearing.**
- **§661.100 – Probation Guidelines.**
- **§661.102 – Alternative Dispute Resolution for Personnel and Contracting Matters.**
- **§661.104 – Negotiated Rulemaking.**

Dr. Kinney stated that Chapter 661, Subchapter E – Contested Cases had gone through the rule repeal process and was ready for adoption of the repeal. These rules were previously proposed to the Board, had been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 661, Subchapter E – Contested Cases. A vote was taken and the MOTION PASSED.

17. Adopt Repeal of 22 Tex. Admin. Code Chapter 664, Continuing Education.

- **§664.1 – Purpose.**
- **§664.2 – Deadlines.**
- **§664.3 – Numerical Requirements for Continuing Education.**
- **§664.4 – Types of Acceptable Continuing Education.**
- **§664.5 – Procedure for Course Approval.**
- **§664.6 – Reporting and Record Keeping.**
- **§664.7 – Review and Audit Process.**
- **§664.8 – Failure to Complete Required Continuing Education.**

- **§664.9 – Acceptable Carry-Over Continuing Education Units/Hours.**
- **§664.10 – Exemptions.**

Dr. Kinney stated that Chapter 664, Continuing Education had gone through the rule repeal process and was ready for adoption of the repeal. These rules were previously proposed to the Board, had been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 664, Continuing Education. A vote was taken and the MOTION PASSED.

18. Adopt Repeal of 22 Tex. Admin. Code Chapter 665, Examination Advisory Committee.

- **§665.1 – Purpose.**
- **§665.2 – Size, Quorum and Qualifications.**
- **§665.3 – Process of Appointment.**
- **§665.4 – Terms of Office.**
- **§665.5 – Non-binding Statements.**
- **§665.6 – Reimbursement for Expenses.**
- **§665.7 – Training.**
- **§665.8 – Examination Process and Board’s Interaction.**
- **§665.9 – Continuing Education Credit.**
- **§665.10 – Texas Guaranteed Student Loan Corporation Defaulters.**

Dr. Kinney stated that Chapter 665, Exam Advisory Committee had gone through the rule repeal process and was ready for adoption of the repeal. These rules were previously proposed to the Board, had been reviewed by the Governor’s Office, were posted on the Texas Register for public comment and no public comments were received.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board adopt the repeal of Chapter 665, Examination Advisory Committee. A vote was taken and the MOTION PASSED.

19. Propose Repeal of 22 Tex. Admin. Code Chapter 663, Standards of Professional Responsibility and Rules of Conduct.

- **§663.1 – Ethical Standards.**
- **§663.3 – Offer to Perform Services.**
- **§663.4 – Conflicts of Interest.**
- **§663.5 – Representations.**
- **§663.6 – Unauthorized Practice.**
- **§663.8 – Adherence to Statutes and Codes.**

- **§663.9 – Professional Conduct.**
- **§663.10 – Disciplinary Rules.**
- **§663.11 – Criminal Convictions.**
- **§663.13 – Introduction.**
- **§663.15 – Precision and Accuracy.**
- **§663.16 – Boundary Construction.**
- **§663.17 – Monumentation.**
- **§663.18 – Certification.**
- **§663.19 – Survey Drawing/Written/Description Report.**
- **§663.20 – Subdivision Plat.**
- **§663.21 – Descriptions for Political Subdivisions.**

Dr. Kinney stated that this item is to propose the repeal of the listed rules in surveying Chapter 663. The enforcement rules have now been proposed and they are ready for adoption.

It was MOVED/SECONDED (Norwood/Cheng) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board propose to repeal Chapter 663, Standards of Professional Responsibility and Rules of Conduct. A vote was taken and the MOTION PASSED.

20. Propose Repeal of 22 Tex. Admin. Code Chapter 661, General Rules of Procedures.

- **§661.33 – Easement Depiction.**
- **§661.57 – Land Surveying Firms Compliance.**
- **§661.97 – Action in Another Jurisdiction.**
- **§661.99 – Sanctions and Penalty Matrix.**

Dr. Kinney stated this item is proposal repeal the listed rules. When we were repealing the other chapters at the last meeting, enforcement rules were not yet ready to be repealed. The enforcement rules have now been proposed and they ready for adoption.

It was MOVED/SECONDED (Cheng/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on November 19, 2020, that the Board propose to repeal Chapter 661, General Rules of Procedures. A vote was taken and the MOTION PASSED.

21. Issues for consideration at future Committee meetings.

No issues were presented or addressed for future consideration at the next Committee meeting.

22. Adjourn.

It was MOVED/SECONDED (Norwood/Cheng) to adjourn the meeting at 9:26 a.m. A vote was taken and the MOTION PASSED.

Date Board approved minutes:

February 25, 2021