

VGIN Advisory Board Meeting

Thursday, May 25, 2017

10:00 AM – Department of Conservation and Recreation

600 East Main Street, 24th Floor

Draft Minutes

MEMBERS PRESENT:	Richard Anderson	Lashrecse Aird
	Christopher Knights	Doug Richmond
	Charles Donato	Sunny Sanders
	Elaine Roop	John Palatiello
	David Suetterlein	Murali Rao
	Clyde Cristman	Nelson Moe
	Adam Ebbin	
MEMBERS ABSENT:	James Leftwich	Scott Lingamfelter
	Hua Liu	
STAFF PRESENT:	Steve Marzolf	Stephen Barbie
	Terry Mayo	Wendy Stout
	John Westrick	Anthony Bessette

1. **CALL TO ORDER**

Delegate Richard Anderson started the meeting at 10:11 AM.

2. **APPROVAL OF MEETING MINUTES**

Chairman Anderson asked for a motion to approve the minutes of October 11, 2016. Mr. Cristman made a motion to approve the minutes of October 11, 2016, and Mr. Richmond 2nd the motion to approve the minutes. During the discussion on the motion, Mr. Palatiello requested one correction to the minutes, stating that the Board minutes to which he was referring during the Orthophotography Procurement and Licensed Land Surveyor Discussion (captured on page 3, second paragraph of the minutes) was the APELSCIDLA Board and not

the VGIN Advisory Board. Mr. Cristman amended his motion, seconded by Mr. Richmond, to approved the amended minutes of October 11, 2016; **11-0-0** (Mr. Moe and Delegate Aird had not yet arrived).

3. **VBMP IMAGERY PROGRAM UPDATE**

Ms. Wendy Stout addressed the VGIN Advisory Board and gave a detailed update on the VBMP Imagery Program. There were several questions from the Advisory Board Members that were answered. Chairman Anderson thanked Ms. Stout for her presentation.

4. **ORTHOPHOTOGRAPHY PROCUREMENT AND LICENSED LAND SURVEYOR DISCUSSION (CONTINUED FROM OCTOBER 11, 2016 MEETING)**

Chairman Anderson briefed the Advisory Board about the extensive discussion on this issue. A consensus was reached at the previous meeting in which the Chairman would send a letter to the Attorney General's Office requesting informal advice on this issue. Chairman Anderson informed the Advisory Board that Mr. John Westrick, one of the Advisory Board's legal counsel from the Attorney General's Office, was in attendance to provide that advice and answer questions. The Chairman also advised that since Counsel would be providing legal advice to the Advisory Board on these specific issues, it would be appropriate for this to occur in "Closed Session." Mr. Westrick informed the Advisory Board that Mr. Richmond, who previously disqualified himself from this matter, has indicated he would not attend the closed session; however, Mr. Palatiello had not disqualified himself. Mr. Palatiello stated that he planned to attend the closed session. Mr. Westrick advised that he could not provide legal advice to the Board in a closed session with Mr. Palatiello present, because the State and Local Government Conflict of Interests Act directs that Officers who have a personal interest in a matter may not attend a closed session at which the matter is discussed, and to the best of Mr. Westrick's knowledge, Mr. Palatiello, or his firm, provides services and receives income from the Virginia Association of Surveyors whose concerns are before the Advisory Board and will be discussed. Mr. Westrick offered to brief members individually on the legal issues. Mr. Palatiello stated that he had no conflict of interest and that if he had a conflict, that Mr. Moe would have one as well. Mr. Westrick stated that members of the Advisory Board are entitled to request a formal advisory opinion from the Attorney General to determine if a personal interest requires them to disqualify themselves, and that Mr. Palatiello could request this. A discussion ensued during which Mr. Cristman respectfully requested that Mr. Palatiello agree not to attend the closed session because the Advisory Board has wanted to receive this legal advice for quite some time and would like to receive the advice at this meeting, and that, if an official advisory opinion of the Attorney General subsequently concludes that Mr. Palatiello, in fact, has no conflict, then he could be briefed at that time. Mr. Moe stated, if it would help matters, he would agree not to attend the closed

session. Mr. Palatiello agreed not to attend the closed session and indicated he was disqualifying himself. Mr. Westrick advised that disqualification requires certain information to be disclosed and requires certain formalities rather than just informally stating a disqualification. Mr. Westrick indicated he would advise Mr. Palatiello subsequently on how to disqualify himself, but Mr. Palatiello's agreement not to attend the closed session did enable the closed session to occur. The Chairman called for a motion from a member of the Advisory Board to go into "Closed Session". Senator Ebbin made a motion that the Advisory Board convene in closed session pursuant to the open meeting exception in Virginia Code § 2.2-3711(A)(7) to confer with the Board's Legal Counsel regarding the issues raised to the Board by the Virginia Association of Surveyors and the APELSCIDLA Board, including:

- whether VITA's Orthophotography procurement legally needed to include a requirement for licensed land surveyors;
- whether the procured services are the practice of land surveying requiring a license;
- whether VITA's release of the Orthophotography data will violate land surveyor licensing requirements;
- Virginia Public Procurement Act rules applicable to professional and nonprofessional service procurements;
- which procedure was correct under that Act for VITA's Orthophotography procurement; and
- Attorney-client privilege and how to comply with Freedom of Information Act requirements for the closed session.

Mr. Cristman seconded the motion, which passed unanimously by roll call vote (**10-0-3**) with Mr. Richmond abstaining and Mr. Palatiello and Mr. Moe declining to vote. The Advisory Board went into "Closed Session" at 11:25 AM. The following were in the Closed Session: Chairman Richard Anderson; Christopher Knights; Senator Adam Ebbin; Senator David Suetterlein; Delegate Lashrecse Aird; Clyde Cristman; Murali Rao; Charles Donato; Elaine Roop, Sunny Sanders; Steve Marzolf (Acting Coordinator); John Westrick (legal counsel); and Anthony Bessette (legal counsel).

The VGIN Advisory Board came out of closed session and reconvened in open session at 12:14 PM. Mr. Moe was not present. The Chairman called for a motion to provide the required certification regarding the closed session. Senator Adam Ebbin moved that the Advisory Board has just concluded a "Closed Session" of the Advisory Board, and by roll call vote, each member who attended the "Closed Session" is asked to certify that to the best of their knowledge:

- (i) Only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act and

(ii) Only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting that was just held.

Christopher Knights seconded the motion. A roll call was taken of all the Advisory Board Members who had been present in the closed session, as follows: Chairman Richard Anderson; Christopher Knights; Senator Adam Ebbin; Senator David Suetterlein; Delegate Lashrecse Aird; Clyde Cristman; Murali Rao; Charles Donato; Elaine Roop, and Sunny Sanders, all of whom certified yes and approved the motion; **10-0-0**. Mr. Richmond and Mr. Palatiello did not vote. Mr. Palatiello asked that the record reflect that he was not present at the closed session.

5. **OLD BUSINESS**

Mr. Marzolf acknowledged that the Board requested that a representative from the National Geodetic Survey come and present to the VGIN Advisory Board about the new datum being developed in 2022. He stated it was being delayed until the next meeting due to the full agenda for this meeting. Mr. Richmond and Mr. Palatiello stressed the importance of this national project and that legislative changes would be required for Virginia to implement this new datum. Both offer to assist Mr. Marzolf with arranging the presentation.

6. **NEW BUSINESS**

- **Meeting Location:** Mr. Marzolf addressed the Advisory Board and said that the January 9th meeting was cancelled because of snow and State Offices being closed in the Richmond Area and that this meeting was being held at the Department of Conservation and Recreation due to the lack of available rooms at VITA's offices in Chester. He asked if the Advisory Board had input as to the location of future Advisory Board meeting after noting the general pros and cons for each location (parking, travel distance, transporting meeting materials, etc.). Chairman Anderson called for a discussion from the Advisory Board members, and most agree there were no problem with meeting at the Commonwealth Enterprise Solutions Center (CESC) in Chester. However, some Advisory Board Members who are members of the Legislature expressed concerns that they often have conflicts, and if the meetings were held Downtown they could attend. The consensus of the Advisory Board was to split the meetings between the two locations by meeting twice in downtown Richmond and twice at CESC. In addition to the request of venue location, the legislative members of the Board asked if the meetings could be moved to the first and third weeks of the month and on a Monday, Tuesday, or Wednesday. This is to align with other meetings they must attend in the Richmond area as part of other legislative duties. The Advisory Board agreed to hold the next two meetings for this year (2017) at the VITA offices, CESC, in Chester.

- **Board Letterhead:** Chairman Anderson informed the Advisory Board that he requested the creation of an official letterhead for the Board (a copy enclosed in their packets). He asked that each Advisory Board member look at the letterhead and email the Board’s Administrative Assistant any changes/additions or deletions to the way the Advisory Board member’s name and representation are referenced on the letterhead.

Chairman Anderson asked for additional “New Business” from the Advisory Board.

Mr. John Palatiello asked about information on parcel data from Mr. Marzolf. Mr. Marzolf advised that while parcel data is available from the GIS Clearinghouse it is a simple aggregation of local data with minimal attribution. Mr. Palatiello commented that he had received comments from a stakeholder that the parcel data from Maryland was superior to that which is available from Virginia. Mr. Marzolf acknowledged that the data is not complete and that the lack of a business owner for the data with resources available to maintain it, the quality will likely not improve.

7. **PUBLIC COMMENT**

There were none.

8. **MEETING ADJOURNMENT**

The VGIN Advisory Board Meeting was adjourned at 12:40 P.M.

Respectfully Submitted: _____

Terry D. Mayo

Date