

Arkansas Geographic Information Systems Board
UALR GIS Applications Laboratory
Donald W. Reynolds Center for Business and Economic Development
2801 S. University Avenue, RBUS 450
Little Rock, AR

March 11, 2008
10:00 a.m.

Board Chair Phyllis Poche' called the meeting to order at 10:14AM then welcomed guests and Board members.

Board Members Present:

Tracy Moy
Phyllis Poche
Randy Everett
Kasey Summerville
John Ed Isbell
Glen Dabney
Dr. Fred Limp
Judge Clayton Castleman

Board Members Not Present:

Judge Jerry Hunton
Dr. Robert Kissell
Ms. Bekki White
Mr. Earl Smith

Guests Present:

Bill Sneed

AGIO Staff:

Shelby Johnson
Maria Owen

The Chair called for approval of the minutes of the December 3, 2008 meeting.

Motion: Judge Clayton Castleman motioned to approve the minutes

Second: Dr. Fred Limp seconded the motion. There being No discussion, the motion passed unanimously.

Old Business

AGIO Report

Sales Tax on Aerial Photography

Shelby reminded members the Board had directed the AGIO to research and develop a recommendation concerning a "Sales Tax" issue brought to the December Board meeting by Elizabeth Bowen the Benton County GIS Coordinator. Shelby reported his findings to the Board. Copies of Attachment A were distributed to the members. It includes relevant excerpts from Arkansas Law and sales tax rules established by the Revenue Division.

Shelby pointed out highlighted sections of the document that were pertinent. Digital orthoimagery was the issue brought forward by Elizabeth Bowen and Shelby addresses that issue by referring to Item D in the sales tax rules, it states "*the tax applies to the service of photography of all kinds.*" Shelby then went on to discuss the professional service of data processing which is exempt from sales tax. [Refer to highlighted section Attachment A]

Board member Glen Dabney opined, "In his practice that the only tax applied is to the tangible touchable product. Are that there are no taxes on processes, just the deliverable product."

Shelby stated this has been true in some case and not in others and need clarification. For example the AGIO paid state sales tax on the imagery collected in 2006.

Shelby went to explain the definition concerning land surveying which is exempt from sale tax as a professional service. [Refer to highlighted section Attachment A]

Shelby referred the Board to an excerpt from a Request for Proposals conducted by Fort Smith which specifically called for a photogrammetric survey and thus no sales tax was paid on that project conducted in 2002.

Shelby concluded the discussion by recommending the board to petition DFA in the rule making process to define photogrammetric mapping and surveying as not subject to tax, based on definition of surveying and photogrammetric mapping in the law.

Randy Everett, asked, "Would Shelby take this to DFA, to explain?"

Shelby responded, "The AGIO would outline the issues and points, and go meet with DFA officials to seek clarification."

Phyllis Poche asked, "In the example how the city did not pay sales tax?"

Shelby responded, "The City's request was for a photogrammetric survey and got it done as a surveying service. Surveying under the definitions is not subject to sales tax. Recommend that the projects be called photogrammetric survey."

John Ed Isbell opined, "Using the definition of professional services under surveying could be a touchy subject for GIS data contracts because someone in the future might not have a professional surveyor license on Board."

Glen Dabney opined, "Aerial survey or aerial imagery doesn't have precision like surveyors or a survey on the ground. It is a sensitive issue."

Shelby asked, "Is the term photogrammetric mapping more appropriate?"

Dr. Fred Limp opined, "There is a separation between photography from processing."

Further discussion continued.

Shelby asked, "Does the board want to take further action?"

Randy Everett opined, "I think we should change the nomenclature approach and take to present to DFA."

Shelby opined, "If the Board asks DFA to change rule making by adding a definition that reflects what this service is and that it is not subject to tax that would clarify the issue. But they may not clarify the guidance in DFA rules."

Dr. Fred Limp opined, "The real issue is this may not be clear for any GIS data development and we should have clarification that any data creation would be a service not subject to sales tax. We believe that this is a service.

Motion: Dr. Fred Limp motioned for AGIO to seek clarification from DFA that any spatial data acquisition is not subject to sales tax.

Second: The motion was seconded by John Ed Isbell.

The Chair called for discussion. The being no discussion the Chair call for the vote and the motion passed by unanimously.

The Chair opined, "Assuming we get a response in writing on this issue it will be up to the board to make sure and educate cities and counties to remove future confusion. We will have a report on this issue at the next Board meeting."

New Business

Legislative Updates

Shelby provided a quick summary of the relevant legislation passed during the session.

ACT 244 was signed into law and renamed the board along with all the other changes the Board drafted in the fall of 2008. The AGIO has already begun making names changes to the website stating the GIS board as the new name.

ACT 296 was signed into land and it is the AGIO budget bill. This budget will be the operating budget for the new and takes effect on July 1st.

ACT 617 was signed into law and provided a supplemental appropriation in the amount \$100,000 to overcome the operating shortfall AGIO already had for ending fiscal year 2009.

ACT 602 was signed into law and it a general improvement fund request for Digital ortho photography and GeoStor. The law provides for \$1 million in appropriation and was allocated to the Executive side. This means the Governor will have the discretion to fund all, some or none of the project. AGIO anticipates it will be April, May or June when we know about the funding and will do what we can to get project underway.

Utility Service Territories Coordination

Shelby reported to the Board the January, 2009 ice storm revealed some serious problems for the Arkansas Department of Emergency Management (ADEM). The issue was learned after an action review by ADEM and state agencies engaged in state response to ice storm. ADEM was unaware of electric and water utility service areas. In particular they did not know exactly where those areas were, which had lost service. They were responding to calls for commodities mostly water, because no power and generators failed and it was difficult not understanding service related to each other. To that end, Shelby committed the AGIO to coordinating the development or acquisition of a state wide layer of electric and water utilities. Shelby stated, "We aren't in the position to develop that data but know several companies have some or parts of the data." He went on to discuss working with Randy Everett to write the disclaimer for this data so that everyone involved would understand the data will only be a graphic representation of the areas and not the actual boundaries. Once completed the AGIO would ask the Board to publish the data in GeoStor via the Board guidelines.

Other News

Shelby informed the Board that Arkansas was selected for a Cooperated Agreements Grant Program to complete a state business plan with the objective of identifying sustainable funding for framework development. There will be more news on this as the project is developed.

Shelby also informed the Board about a major publication update and press release regarding the Arkansas Centerline File program. He reported that seventy of seventy five counties are now published in GeoStor. AGIO is continuing to work with Newton County officials and reported they had a very good meeting with the County Judge and there was a major meeting planned with county stakeholders in Jasper on March 10th and that AGIO would report the outcome and progress at the next Board meeting.

Shelby reported to the Board about Broadband mapping being included in the American Recovery and Reinvestment Act. Connect Arkansas has been designated as the state entity in Arkansas that would lead a Broadband mapping effort and direct the Board to their website. www.Connect-Arkansas.org The AGIO would cooperate and support the activity in whatever way possible.

Elections

The Chair informed the Board that as the first meeting of the year the Board is required by its law to elect officers. She also reminded members that her term expires in August and that she felt it was time to step down as Chair. The Chair then opened the floor for nominations for Chair.

Nomination: Randy Everett nominated Tracy Moy, as Chair.

Second: Kasey Summerville seconded the nomination.

Motion: Judge Clayton Castleman motioned to cease nominations and elect by acclamation.

Second: The motion was seconded by Glen Dabney

The chair called for the vote and the motion passed unanimously.

The Chair congratulated Tracy as the new Chair of the Board.

The Chair then opened the floor for nominations for Vice-Chair.

Nomination: John Ed Isbell nominated Earl Smith as Vice-Chair.

Second: Kasey Summerville seconded the nomination.

Motion: Judge Clayton Castleman motioned to cease nominations and elect by acclamation.

Second: The motion was seconded by John Ed Isbell

The chair called for the vote and the motion passed unanimously.

The Chair congratulated Earl as the new Vice-Chair of the Board.

The Chair reminded the Board that passage of ACT 244 placed a requirement of the Board to select a State Geographic Information Officer and that with the upcoming creation of the new agency it would be wise to have that selection entered into the record.

Motion: Kasey Summerville motioned to appoint Shelby Johnson as the State Geographic Information Officer by acclamation.

The chair called for the vote and the motion passed unanimously.

The Chair congratulated Shelby on his appointment as Geographic Information Officer

The Chair discussed board members whose term expires in August, 2009 included herself and Dr. Fred Limp. The Chair offered a recommendation for Beth McMillan who is a Professor at the University of Arkansas, Little Rock. The Chair said she would provide a biography of hers to board.

Shelby recommended Dr. Jack Cothren who will become the new Director of the Center for Advanced Spatial Technologies as a candidate to replace the expired term of Dr. Fred Limp. The Chair suggested to other Board members to consider other candidates that might be recommended to the Governor for consideration of appointment.

The Chair briefly discussed to timing of the October 28th meeting of the Board which is scheduled coincident with the Arkansas GIS Users Forum in Eureka Springs.

GIS Users Forum Chair Alan Price had requested to move the Board meeting to Tuesday, October 27th instead of the 28th. Chair Poche' said this would require many board members to stay overnight and requested the Board consider at what time the Board would like to meet and finalize the issue at the next board meeting.

Annual Statement of Financial Interest –can be done online
<https://www.ark.org/sso/index.php?template=sos>

Chair Poche' discussed a requirement for the Board to adopt travel reimbursement at its first meeting of the year. This is in accordance with **Arkansas Code 25-16-902**. Expense reimbursement.

(a) Every state board may, by a majority vote of the total membership of the board cast during its first regularly scheduled meeting of each calendar year, authorize expense reimbursement for each board member for performing official board duties.

(b) The expense reimbursement shall not exceed the rate established for state employees by state travel regulations.

Motion: Bekki White motioned for Travel Reimbursement in accordance with the law,
Second: Randy Everett seconded the motion. Motion passed unanimously.

The Chair opened the floor to receive comments from guests. No comments were received.

The Chair asked for a motion to adjourn the meeting.

Motion: Randy Everett motioned to adjourn the meeting.

Second: Tracy Moy seconded the motion.

There being no further discussion the motion was approved unanimously and the meeting adjourned at 11:53AM.

Next GIS Board meeting June 3, 2009 at the Arkansas Geographic Information Office.

Minutes prepared by Maria Owen and Shelby D Johnson.

Attachment A:

**ARKANSAS RULES
GROSS RECEIPTS TAX RULES
COMPENSATING USE TAX RULES
SPECIAL EXCISE TAX RULES
ARKANSAS DEPARTMENT OF FINANCE
AND ADMINISTRATION
Revised 10/2008**

http://www.arkansas.gov/dfa/rules/et2008_3.pdf

GR-10. SERVICES SUBJECT TO TAX – PRINTING AND PHOTOGRAPHY, JOB PRINTERS, PRINTERS AS MANUFACTURERS:

A. The tax must be collected and remitted on the service of printing of all kinds, types and characters, including the service of overprinting. All businesses engaged in providing such services, including job printers and others, must collect and remit the applicable tax upon the gross receipts or gross proceeds derived from providing such services.

B. Job printers must collect and remit tax upon the gross proceeds derived from the furnishing of such a service to a consumer without any deduction for any costs or expenses incurred in the furnishing of such services.

Example: Customer provides information to job printer to print catalogs for customer. Job printer should collect and remit tax on the amount invoiced to customer. The job printer should pay tax on all materials used and consumed in performing the taxable service, such as the ink, paper, and all other materials used in printing the catalogs.

C. Printers who print articles of commerce for sale to consumers are considered to be manufacturers. Items used by a printer who is a manufacturer that become a recognizable (capable of being recognized), integral part of the printed product may be purchased by the printer exempt as a sale-for resale. (See GR-53.) Printers must pay tax on items used in the printing process that do not become a recognizable, integral part of the printed product.

D. The tax applies to the service of photography of all kinds. State and local sales tax apply to photography services based on where the customer receives the service. The photography service, including the sitting, is received when the customer views the product of the service (i.e. proofs, pictures, etc.).

Source: Ark. Code Ann. §§ **26-52-301(4)**; (4) *Printing of all kinds, types, and characters, including the service of overprinting, and **photography of all kinds***;
26-52-402 This code provides an exemption for equipment only.

GR-10.1. MAILING, WORD PROCESSING, AND DATA PROCESSING SERVICES:

A. The gross receipts or gross proceeds derived from sales of the following services are not subject to the tax:

1. The addressing, through the use of a computer or otherwise, of material to be mailed, with names and addresses furnished by the customer or provided by the seller for the customer.

2. The production, through the use of a computer or otherwise, of labels to be affixed to material to be mailed, where the names and addresses are furnished by the customer or provided by the seller for the customer. The tax will not apply regardless of whether the seller affixes the labels to the material to be mailed.

3. The production of multiple copies of letters, manuscripts, or other documents using word processing or data processing equipment.
 - a. The term "multiple copies" includes form letters produced with a slight variation that personalizes essentially the same letter.
 - b. The term "word processing equipment or data processing equipment" means computer hardware and software used to produce, create, edit and print original documents. The term "word processing equipment or data processing equipment" does not include photocopying or duplication equipment.
- B. A seller providing non-taxable services under this rule must pay tax on any tangible personal property used in providing these services at the time the items are purchased. This includes items such as mailing labels, paper, envelopes, and any other property used by the seller or provided to the customers as part of these mailing, word processing and data processing services.

Source: Ark. Code Ann. § 26-52-301

ARKANSAS CODE - LAND SURVEYING 17-48-101. Definitions.

As used in this chapter:

- (1) "Board" means the State Board of Registration for Professional Engineers and Land Surveyors;
- (2) Plats showing the shape and areas of tracts of land and their subdivision into smaller tracts; (A) "Land surveying" means any service comprising the:
 - (i) Determination of the location of land boundaries and land boundary corners; and
- (3) "Metadata" means a description of the content, ancestry and source, quantity, database schema, and accuracy of digital map data;
- (4) "Professional surveyor" means a person who, by reason of special knowledge of mathematics, surveying principles and methods, and legal requirements that are acquired by education or practical experience, is qualified to engage in the practice of land surveying and surveying measurement certification; and
- (5) "Surveying measurement certification" means providing the professional service of certification or sealing of maps, documents, digital files, or other data for the purpose of verifying that the maps, documents, digital files, or other data are authoritative professional determinations based on accepted methods and principals of surveying measurement or analysis representing or listing the following types of surveying measurements:
 - (A) The configuration or contour of the earth's surface or the position of fixed objects on the earth's surface;
 - (B) The position or elevation of any survey boundary or control monument or reference point; and
 - (C) The alignment or elevation of any fixed works embraced within the practice of professional engineering.