



STATE OF TENNESSEE
BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-3611

July 30th & 31st, 2015 Minutes
First Floor Conference Room (1-B), Davy Crockett Tower

Day One : July 30th, 2014

The Board of Examiners for Land Surveyors met in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Mr. Galyon Northcutt, Board Chairman, called the meeting to order at 9:00 a.m. and the following business was transacted.

BOARD MEMBERS PRESENT

Galyon Northcutt
Jay Caughman
Tim Lingerfelt
Sue Braly

GUESTS

Jimmy Cleveland (TAPS)

STAFF MEMBERS PRESENT

Day One: Donna Moulder, Nikole Avers, Josh Kilgore, Dennis O'Brien
Day Two: Nikole Avers, Josh Kilgore, Dennis O'Brien

Chairman Northcutt read the public meeting statement into the record, indicating that the agenda was posted to the Land Surveyor website on July 20th, 2015.

ADOPT AGENDA

Chairman Northcutt requested that the agenda be amended to add a report from the TAPS President, Mr. Cleveland. Mr. Caughman made a motion to accept the agenda as written with that addition. This was seconded by Mr. Lingerfelt. The motion carried unopposed.

MINUTES

Mr. Lingerfelt made a motion to approve the April 2015 meeting minutes as written. Mr. Caughman seconded the motion. The motion carried unopposed.

ELECTION OF OFFICERS

Vote: Mr. Caughman made the motion to nominate Galyon Northcutt as Chairman. This was seconded by Mr. Lingerfelt. The motion carried unanimously.

Vote: Mr. Lingerfelt made the motion to nominate Jay Caughman as Vice-Chair. This was seconded by Mr. Northcutt. The motion carried unanimously.

LEGAL REPORT

Case Nos.: L15-SUR-RBS-2015011831 & 841

These two (2) complaints were filed alleging that Respondent had been engaged in unlicensed

activity and had used other surveyors' names, stamps and license numbers to pass himself off as a licensed surveyor in multiple states. The first Complainant here is a surveyor from Georgia alleging identity theft against Respondent. Complainant furnished a survey showing Complainant's stamp and what he claims is his forged signature. The second Complainant is an attorney familiar with Respondent's past actions and discipline. Complainant 2 contacted Complainant 1 asking if he had prepared the survey that had his "forged" signature on it, Complainant 1 said he had nothing to do with the survey in question. It appears Respondent has been disciplined in Ohio, Rhode Island, and Pennsylvania for unlicensed activity or due to his lack of regard for licensing requirements in other states in relation to surveying.

Respondent states in his response that all of this was a "misunderstanding" and that he was asked to perform survey work by a client in Oak Ridge, TN. Respondent states that due to a large volume of work he immediately dropped another project and performed the TN work. Respondent never addresses the fact that he is not licensed in TN. He states Complainant 1 and he (whom he is accused of forging the signature and seal of) have had a long business relationship and that he prepared the initial survey to be reviewed by Complainant 1, but that never happened, despite Respondent forging Complainant's name to it. Respondent states he is about to retire and that he is embarrassed and has apologized to Complainants and Board in this case.

Despite Respondent's apologies and excuses, it is apparent that a survey was conducted for a client in Tennessee, despite Respondent knowing he was not licensed to do so. Respondent also made an attempt to forge another surveyor's signature and seal, which he knew to be licensed in TN, to pass off work to the client. All of this despite being disciplined for similar actions by other states in the past.

Complaint History: None in TN.

Counsel's recommendation: Authorize formal and send a Consent Order with a civil penalty in the amount of \$4,000 to resolve both complaints - \$1,000 for unlicensed practice in violation of TCA 62-18-101(b) (x2); \$1,000 for misconduct in the practice of land surveying in violation of 62-18-116(B) (x2).

Vote: Mr. Lingerfelt made the motion to modify counsel's recommendation to \$3,000 for 3 separate violations as per the complaint and requested Ms. Avers draft a letter of Instruction for complainant 1 to be reviewed by the Board before mailing, with regard to the safe keeping of his seal. This was seconded by Mr. Caughman. The motion carried unanimously.

RE-PRESENTMENT

1. Case No.: L14-SUR-RBS-2014025951

Complaint History: None.

Consumer complaint was originally presented to the Board who authorized a formal hearing and authority to settle for \$1,000 civil penalty for the incompetency in the practice of surveying. Various background information was later obtained from Respondent and his attorney and the decision was made to have the expert reviewer meet with Board counsel. Upon meeting with the expert reviewer and discussing the circumstances surrounding the case with Respondent's attorney in more detail, it was determined the matter should be informally reviewed by a Board member for a second opinion regarding any incompetency or misconduct in relation to the survey completed. It is important to note that the survey completed was done for a third party and that the Complainant was NOT the client. The subject property has been in a long ongoing legal dispute and no other surveys performed for Complainant by other surveyors were to her

liking. The findings that Complainant wants have not been upheld by the court and it appears that Respondent's survey was adopted as a correct representation of the boundary of the subject property by the Court. Respondent was hired as an expert witness for trial by the third party land owner and the survey conducted was NOT a retracement survey, as our expert originally contended, but it was the setting of the boundaries as interpreted from various deeds after much of the land had been separated and parceled out over a long period of time. Some of the deeds contained errors and needed other, old deeds to compare and give an accurate picture of the boundary as it exists today. In the opinion of the reviewing Board member, it was determined that there is no evidence to show any incompetency on the part of Respondent regarding the conduct of the survey performed in this matter.

Counsel's recommendation: Close with no further action.

Vote: Mr. Lingerfelt made the motion to accept counsel's recommendation. This was seconded by Ms. Braly. Mr. Northcutt recused himself from the vote which carried unopposed.

MILITARY APPLICANT RULE

Mr. Kilgore presented the rule/language for approval.

Vote: Mr. Caughman made the motion to accept the rule as written. This was seconded by Mr. Lingerfelt. The vote carried unanimously.

DISCIPLINARY EXAM

Since this was an open book exam, the Board members decided that this exam should be sent with consent orders, giving the respondent time to complete and turn it back in.

Vote: Mr. Lingerfelt made a motion to include the disciplinary exam as part of all action that resulted in consent orders (not formal hearings). This was seconded by Mr. Caughman. The motion carried unanimously.

LICENSEE COMPLAINT REVIEW

A licensee had made a request in writing to the Board on two complaints where the reviewer appeared not to have looked at case material closely enough. Mr. Caughman suggested that a Board member review the case and present findings at the next meeting. Mr. Lingerfelt was glad to do so.

DIRECTOR'S REPORT

There were no legislative updates for this period.

Ms. Moulder presented the meeting dates for 2016 and suggested the possibility of having one day meeting going forward. Mr. Caughman suggested that one day meeting would go far toward efficiency but given members drove from afar, suggested the flexibility of having two day meeting as the need arose. Ms. Avers assured members that a second day hotel stay would be covered in that instance.

The meeting dates for 2016 were agreed to as follows:

January 21st, 2016 (Application reviews)

April 6th, 2016 (Ms. Avers to check on this proposed date to fall before the NCEES meeting)

July 28th, 2016

October 27th, 2016

Ms. Avers offered any assistance needed for the next NCEES meeting and by Mr. Lingerfelt's request, would check into the possibility of the members attending the Engineering Committee's next meeting. She also suggested members teleconference at future Board meetings by public necessity so as to cover items on the agenda that did not need their physical presence, such as the signing of certificates.

Vote: Mr. Caughman made a motion to approve the dates as discussed with the possibility of a joint meeting with the Engineering committee on one of those dates. This was seconded by Ms. Braly. The motion carried unanimously.

Ms. Moulder requested articles of interest for the next newsletter and asked members to communicate those to Cody Kemmer.

On the continuing education report:

R. Scott Barrett requested that his courses be reviewed. On scrutiny by the Board, it was decided that none of his courses qualified as continuing education for land surveyors.

McKissock 100% Education had a list of course for renewals and had requested they be approved as before, for the same PDH hours as before.

Vote: Mr. Lingerfelt made a motion to approve the renewals as presented. This was seconded by Ms. Braly. The motion carried unanimously.

Mr. William Thompson requested approvals on courses sent earlier for review. Based on the education reviewer's recommendations, the Board decided to approve the courses as before and suggested that Mr. Thompson approach the Board in person at the next meeting if he wanted any additional hours approved for the courses presented.

Vote: Mr. Caughman made a motion to approve the courses with the same hours as before, with no additional hours as requested. This was seconded by Mr. Lingerfelt. The motion carried unanimously.

Ms. Moulder then presented the numbers of certificates that needed to be signed, indicating that there were thirty seven (37) application reviews that needed to be conducted. She then informed the Board that since the FS exam went to the CBT format, thirty two (32) applicants had registered to take the exam – of which eleven (11) had passed and fifteen (15) had failed. She ended her report with the licensing numbers as of July 15th, 2015.

TAPS COMMITTEE REPORT

Mr. Cleveland informed the Board that the Minimum Standards Seminar had been approved and TAPS would like to choose the presenter.

Vote: Mr. Lingerfelt made a motion to approve that TAPS choose a suitable presenter for the seminar. This was seconded by Mr. Caughman. The motion carried unanimously.

He also weighed in on other items on the agenda as they came up for discussion.

REVISION OF STANDARDS OF PRACTICE

In regard to the revision of the Standards of practice on including Plats, Mr. Cleveland shared that it could become cost prohibitive if it became required on each and every survey. Mr. Lingerfelt added that requiring plats in SOP was important as surveyors were charged with preparing them by the current rules of licensing so they deliver them to the customer with the invoice. Mr. Kilgore and Ms. Avers suggested it could be put into the next legislative wish list or have a professional organization request that the Board take up the matter.

On the GPS standards, Mr. Cleveland submitted the opinion that TAPS would like to see basic metadata that helped re-create a survey on a plat/co-ordinate system used. The Board members all felt that being a relatively new tool, it had to meet accuracy standards and if used, the SOP could reflect that GPS was used to meet 'applicable methods and standards' as an additional note on the survey – in effect, standards would need to be set by the Board to ensure surveyors looking at re-working a survey 10 years hence, would have some idea on what to do and how to work the new retracing – in short, minimum data would be required to re-create a survey if GPS methods were used. These minimum standards would be decided on and set by the Board. Mr. Danny Worley was given permission to share his views. His input was that GPS in the future would have proper pointers to a corner/coordinate/monument to start from.

Mr. Danny Worley was given permission to approach the Board. His question was that he had a private company that employed 6 surveyors, who maintained property for the Federal Government – so should those surveyors come under the purview of the board and should they be licensed in the State of Tennessee.

The Board offered that no matter what, they should adhere to surveyor SOP even on Federal property and if that ever involved a ‘transfer of title’, that would have to be performed by surveyor laws and rules by state licenses surveyors.

There being no further business, Mr. Northcutt suggested and adjournment of the first day’s meeting at 5:06pm.

A motion to adjourn made by Mr. Caughman and seconded by Mr. Lingerfelt, carried unanimously.

Day Two : July 31st, 2015

The Board of Examiners for Land Surveyors met on July 31st in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Galyon Northcutt called the meeting to order at 9:00 a.m. and the following business was transacted.

TS EXAMINATION

Director Avers suggested that this could be proctored in-house as the admin staff had credible experience from doing this for other board examination already. It would be cost-effective and only require a subject matter expert be contacted to create a viable and professional question/answer pool. The Board decided that there could be three different ways to do this – in-house, at an outside location or as mailed out as a home test the applicant would receive once approved by the Board. Mr. Lingerfelt added that this would need to be proctored by every jurisdiction on their own since this had become an issue after the NCEES declared they would no longer proctor any state specific examination.

Vote: Mr. Caughman made the motion that the administrative staff could proctor and hold the TS examination in-house after April 2016. This was seconded by Ms. Braly. The motion carried unanimously.

The Board also decided to bring their ideas on how best to conduct the examination at the next meeting.

DEFINITION OF ‘PRINCIPAL’

The Board decided that so long as surveyors understood that a licensed surveyor had to be present as ‘Principal’, the general meaning of that word would suffice. As such, they decided it could be drafted as a rule, which Mr. Kilgore could present language for at the next meeting. Ms. Avers reminded the Board that we cannot have a policy that affects licensees, just administrative staff on how processing should be carried out.

Continuing on **GPS STANDARDS**, the Board decided on the advice of Mr. Kilgore, that any modified standards for using GPS should be added as a rule, the language of which could be decided at the next meeting, so the rule could then be enforced by the administrative staff.

Vote: Mr. Lingerfelt made a motion to have a document marked up on the standards for GPS as set by the Board as to what should be seen on GPS plats. This was seconded by Mr. Caughman. The motion carried unanimously.

On adding monumentation on all easements, Mr. Cleveland had shared earlier that TAPS felt that most easements were already monumented so putting a cap on an easement could create a burden

on both surveyors and the public as cost prohibitive. Mr. Worley who was present had agreed with TAPS' position on the subject which the Board felt that since surveying easements was one of the functions of a surveyor, the SOP could include that they should be more easily locatable, though monumenting easements would drive the cost of a survey up, not to mention creating the possibility of damaging critical pipelines and such.

JULY APPLICATION REVIEWS

<p>PS & TS: APPROVED APPLICANTS Joshua Ray Butts Bryan Scott Dean Gregory K. Gurney Jared Starland Knight Grayson William Smith Philip Matthew Wilson</p> <p>PS: APPROVED APPLICANTS Daniel Andrew Curry James Jeremiah Davis</p> <p>TS: APPROVED APPLICANTS Bruce Darius Beaver Christopher Wayne Cockrell Joshua Everett Michael Ray Geiger Neil Anders Grande Dwayne Allen Hall John Coke Smith IV James Meari Spearman III Gregory Allen Stirm Charles A. Taylor Derek Scott Wagner Everette Dean West IV Christopher Mark Young</p>	<p>FS: APPROVED APPLICANTS Johnee Rafael Barnett Richard Gregory Middleton Jarred Crawford LaDuke Stephen Vanderhorst Scott Andrew Cantrell Gerrit Taylor Smith Scott Richard Jones Steven Jarrod Sides Nathan Carl Gregory Adam Christopher Bledsoe</p> <p>=====</p> <p>PS & TS: DENIED APPLICANTS Blake Austin Sudduth</p> <p>TS: DENIED APPLICANTS Aidan Patrick Deegan Davis A. Weirich Louis Joseph Hanser II Alfred J. Kesler Byron Taylor Freeman William Thomas Smith Timothy Wayne Caldwell Daryan Michael Bernard Adam Leftwich Robert Edward Farley Jason McDaniel Forsberg</p>
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BOARD MEETING PDH's

Vote: Mr. Caughman made a motion to allow the board members seven (7) PDH hours for the two-day board meeting. The motion was seconded by Ms. Braly. The vote carried unanimously.

There being no further business, Mr. Northcutt suggested and adjournment of the second day's 10:50 a.m.

A motion to adjourn made by Mr. Caughman and seconded by Ms. Braly, carried unanimously.