



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

August 1-2, 2013 - Minutes
First Floor Conference Room (1-B), Davy Crockett Tower

The Board of Examiners for Land Surveyors met August 1-2, 2013 at 9:09 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Mr. Lingerfelt called the meeting to order and the following business was transacted.

BOARD MEMBERS PRESENT

Tim Lingerfelt
Galyon Northcutt
Sue Braly
Jay Caughman

STAFF MEMBERS PRESENT

Day One: Nikole Avers, Donna Moulder, Robert Herndon, Dennis O'Brien
Day Two: Donna Moulder

ADOPT AGENDA

Mr. Lingerfelt indicated he would like to add a few items to the agenda. Under old business he requested the Board review the revised application from the last meeting and under new business, that the Board discuss a letter each of the members had received from Larry Doss. He recommended getting a vote for approval of expenses for the members traveling to the NCEES meeting and a general discussion of mapping and platting standards for better legibility for registrars of deeds. Mr. Northcutt made a motion to incorporate the additions to the agenda. This was seconded by Ms. Braly. The motion passed unopposed.

Mr. Lingerfelt read the public meeting statement into the record, indicating that the agenda was posted to the Land Surveyor website on July 9, 2013.

MINUTES

The minutes of the previous meeting held on April 11-12, 2013 were reviewed. Mr. Lingerfelt requested that a sentence on page 20 of minutes on the number of Photogrammetrists grandfathered into other states be deleted, since to his recollection there were only 157 in Virginia, 130 in Florida and 110 in North Carolina. Mr. Northcutt agreed that the sentence be removed and made the motion to accept the minutes as amended. Ms. Braly seconded the motion. The motion carried unanimously.

ELECTION OF OFFICERS

Mr. Northcutt nominated Mr. Lingerfelt for chairman of the land surveyor board. This was seconded by Ms. Braly. Ms. Braly nominated Mr. Northcutt for vice-chair. This was seconded by Mr. Lingerfelt. This motion also passed unanimously.

LEGAL REPORT

Mr. Herndon presented the legal report for review. The recommendations and votes were as follows:

NEW CASES

1. Complaint #201300877

The complaint alleges that the Respondent, a licensed land surveyor, committed misconduct through misuse of his stamp in violation of Tenn. Comp. R. & Reg. 0820—04—.08(3) [SEALS]. Specifically, the Respondent submitted documents bearing his seal for a local planning commission's approval, and these documents were rejected because the signature on the seal appeared to have been traced over rather than signed as an original. After the complaint was filed, the parties resolved the issue and the Complainant had submitted a written request that the complaint be withdrawn. There is no complaint history with this Respondent.

Counsel recommended that the case be closed with a Letter of Warning to be familiar with all applicable administrative rules.

Vote: Mr. Northcutt made a motion to accept counsel's recommendation. This was seconded by Ms. Braly. The motion carried unopposed.

2. Complaint #201301082

This matter was previously presented at the Board's April 11th, 2013 meeting as follows: The complaint alleges that the Respondent, a licensed land surveyor, committed misconduct or provided land surveying services incompetently in the preparation of a plat. A review of the complaint information shows that the Complainant is an adjoining land owner who disagrees with the Respondent's plat. There is no evidence in the file that the Respondent's plat was anything other than a professional opinion that did not establish property boundaries, and in a letter the Respondent advised the Complainant that he "should have a survey made for him by another surveyor" since the Respondent was hired to produce the survey by another entity for its property. There is no complaint history for this Respondent. Recommendation: Close the case for lack of grounds for discipline with the option to revisit the matter if new relevant information surfaces.

ANALYSIS: The Board agreed with this assessment.

DECISION: Approved by the Board.

In the intervening period, the Complainant disputed the Board's decision to close this matter and asked for the Board to reconsider, based on new information. This information consisted of property information from the city, some documentation associated with a boundary dispute and some deeds. There was no indication of an

allegation of incompetence. This matter seems to either be in litigation to settle the boundary dispute or is headed in that direction.

Counsel recommended that the case be closed with prejudice with the option to reconsider only if the results of the litigation indicated misconduct on the Respondent's part.

Vote: Mr. Northcutt made a motion to accept counsel's recommendation. This was seconded by Ms. Braly. The motion carried unopposed.

3. Complaint #201301246

The complaint alleges that the Respondent, a licensed land surveyor, potentially committed misconduct through conviction of a felony in violation of Tenn. Comp. R. & Reg. 0820—04—.07(3)(a) [MISCONDUCT]. Currently, the Respondent has been arrested and charged with a felony involving moral turpitude (dishonesty). There is no complaint history with this Respondent.

Counsel recommended approval of a formal hearing with authority to settle with a Consent Order for immediate revocation upon conviction, with a provision that if the Respondent was acquitted, the complaint would be dismissed.

Vote: Mr. Caughman made a motion to accept counsel's recommendation. This was seconded by Mr. Northcutt. The motion carried unopposed.

4. Complaint #201301297

The complaint alleges that the Respondent, a licensed land surveyor, committed misconduct or provided land surveying services incompetently in violation of the Board's law and administrative rules. The matter involves a disagreement on the location of a property line and seems to be based upon differing opinions of the location of one point between two surveyors and the adjoining landowners. There is no complaint history for this Respondent, who had been licensed since 1986. Since the complaint was filed, the Respondent is deceased.

Counsel recommended that the case be dismissed since Respondent is deceased.

Vote: Mr. Northcutt made a motion to accept counsel's recommendation. This was seconded by Ms. Braly. The motion carried unopposed.

5. Complaint #2013011951

This case was referred to a contracted complaint reviewer for analysis because of the allegation of incompetence in the Respondent's professional practice of land surveying, in possible violation of Tenn. Code Ann. § 62-18-116(a)(B) [disciplinary action for incompetence], Tenn. Code Ann. § 62-18-124(d) [notice to landowners for discovered discrepancies], Tenn. Code Ann. § 62-18-127 [Duty to research common boundaries], Tenn. Comp. R. & Reg. 0820—03—.07(1)(h) [SURVEY TYPES AND REQUIREMENTS] and Tenn. Comp. R. & Reg. 0820—04—.04 [PUBLIC STATEMENTS]. Specifically, the complaint alleges that the Respondent was incompetent in land surveying, failed to research common boundaries, failed to notify the Complainant of a major discrepancy between the deed descriptions, failed to set the

monuments correctly and later testified in court on the matter in a way that the Complainants allege was incorrect. There is no formal complaint history for this Respondent. Although after careful examination of all the documentation associated with this matter, the complaint reviewer did not find probable cause that the Respondent deviated from the expected standard of care in any manner that demonstrated incompetence, and that the transcript of the court testimony only reflected the Respondent's professional conduct. The matter is characterized as a boundary dispute, with the judgment of the Respondent deviating at some points from the previous surveyor. However, the complaint reviewer identified a possible violation of a Board rule that was not cited in the complaint:

Tenn. Comp. R. & Reg. 0820—03—.07(1)(b)(7) [SURVEY TYPES AND REQUIREMENTS] – “A Survey Map or Survey Plat shall have a title and contain the following information: A certification on the face of the final Survey Map or Survey Plat as to the category of the survey and the ratio or precision of the unadjusted survey, which shall have the following content: Certification as to Category I, II, III, or IV; Ratio of Precision of the unadjusted survey; Statement that the survey was done in compliance with current Tennessee Minimum Standards of Practice; Signature; and Registration Number.” The survey does not meet the standards of certification because the ratio or precision of the unadjusted survey is stated as exactly 1:7,500, which is highly unlikely.

Counsel recommended the case be closed with the option to reconsider should new, relevant information be discovered.

Vote: Mr. Northcutt made the motion to accept counsel's recommendation. This was seconded by Mr. Caughman. The motion carried unopposed.

6. Complaint #2013013001

This case was referred to a contracted complaint reviewer for analysis because of the allegation of misconduct in the Respondent's professional practice of land surveying, in possible violation of Tenn. Comp. R. & Reg. 0820—04—.04 [PUBLIC STATEMENTS] for The complaint alleges that the Respondent, a licensed land surveyor, committed misconduct or provided land surveying services incompetently by creating a question about a property boundary that is “common knowledge,” according to the Complainant land owner. A review of the complaint materials does not reveal any public statement being made in the context contemplated by the cited rule; however, the complaint reviewer was charged with examining the documentation for any other possible violation of the Board's authorities. Ultimately, the matter involves a disagreement on the location of a property line and seems to be based upon differing opinions of the location of one point between two surveyors and the adjoining landowners. Although the complaint reviewer states that a mistake involving an incorrect corner was remedied and that it was an honest mistake, the complaint reviewer was concerned about one item as follows:

Tenn. Comp. R. & Reg. 0820—03—.07(1)(b)(7) [SURVEY TYPES AND REQUIREMENTS] – “A Survey Map or Survey Plat shall have a title and contain the following information: A certification on the face of the final Survey Map or Survey Plat as to the category of the survey and the ratio or precision of the unadjusted survey, which shall have the following content: Certification as to Category I, II, III, or IV; Ratio

of Precision of the unadjusted survey; Statement that the survey was done in compliance with current Tennessee Minimum Standards of Practice; Signature; and Registration Number.” The certification of class and accuracy of the survey does not show the actual unadjusted ratio of precision; the face of the survey states the precision of the unadjusted survey is greater than 1:7,500. The survey was conducted with GPS equipment, so closure by conventional survey equipment is not available.

Counsel recommended the case be closed with the option to reconsider should new, relevant information be discovered. On hearing counsel’s recommendation, the Board’s decision was to have the reviewer re-examine the materials for compliance in that the plat must contain a statement that remote sensing equipment was used in the production of the plat. The Board added that if the plat is in compliance, the case be closed with no further action. If the statement in question was not present, close with a Letter of Caution that all plats must comply with all standards of practice regardless of the methods used.

Vote: Mr. Northcutt motion to accept this decision. This was seconded by Mr. Caughman. The motion carried unopposed.

APPLICANT REVIEW

The Board reviewed a petition from Jeff Elliott who appeared before them to request a change in the score awarded to him at Tennessee Specifics (TS) exam, since he felt he could have been awarded at least four (4) extra points in different sections of the exam, thereby allowing him to pass. Mr. Elliott added that he had been in training to become a land surveyor for the last twenty (20) years and was disappointed at the manner in which the proctor had scored his exam.

Mr. Lingerfelt explained that the proctor was employed to administer and score the exam and met with the Board to review as necessary. In the case of Mr. Elliott, he felt the proctor had been more than fair in his scoring even though the email exchange had at times, become somewhat aggressive on the part of Mr. Elliott. He also noted that Mr. Elliott had taken the exam seven (7) times and had been unsuccessful every time. Mr. Elliott felt he had only taken the exam five (5) times and was corrected by Mr. Lingerfelt as to the different dates on which he had taken the exam, numbering seven (7) times.

Mr. Caughman concurred the email exchanged appeared aggressive and the exam history of Mr. Elliott reflects that he has failed the exam seven (7) times. He recommended that Mr. Elliott study and, hopefully, scores better than a seventy (70). He said that all future communications on exams and scoring should be between Mr. Elliott and the Board office, not directly with the proctor.

DIRECTOR’S REPORT

Ms. Moulder gave the director’s report to the Board, which began with her welcoming the new member, Mr. Caughman who would represent West Tennessee through June 30, 2019. She indicated that the Board meetings for 2014 needed to be scheduled and suggested that all the members go online to the land surveyor’s Board website to sign up for notifications on future land surveyor Board business such as statute changes, rulemaking hearings. She provided the members an overview of the budget information and license data.

Mr. Lingerfelt indicated that the Board should review applications at every meeting going forward so as to be able to handle the Fundamentals of Surveying (FS) exams so no applicant got held up when they were ready to apply.

He also noted that the October meeting should perhaps be three (3) days to cover the two possible formal hearing and application reviews.

The Board decided the calendar for 2014 based on the examination dates and potential applications reviews they would meet as follows:

January 30-31, 2014
April 10-11, 2014
July 31-August 1, 2014
October 23-24, 2014

TAPS Report

Mr. Lingerfelt welcomed Leonard Tusar, Middle Director at Large for TAPS, to the meeting and invited him to present any information he had to share. Mr. Tusar indicated that he hoped the President of TAPS had sent out a written report earlier, and he would be ready with a new report at the next meeting.

NCEES Annual Meeting

Mr. Lingerfelt discussed NCEES meeting in San Antonio later in the month and requested a motion be made to approve the travel expenses. Mr. Caughman made a motion that travel expenses for the chair and vice-chair to attend the NCEES meeting in San Antonio conference be approved. The motion was seconded by Ms. Braly. The motion carried unopposed.

NCEES CONTRACT DISCUSSION

Mr. Lingerfelt then brought up the matter of the NCEES contract for the Fundamentals of Surveying (FS) exam. Mr. Herndon informed the Board that since the exam was going to a computer-based-testing (CBT) format, there would be no further need for a contract. He added that since no money would be paid to the Board for such testing, there would be no need for any contractual relationship going forward. Mr. Caughman was interested to know what the other states were doing, to which Mr. Herndon answered that some would continue to have contracts, other would go with a Letter of Agreement, while others would have none – and since the State was going with the CBT, there would be no contract necessary for Tennessee.

NCEES SOUTHERN ZONE MEETING SITE

Ms. Moulder said she had received an email from Dr. Turner on the NCEES Southern Zone meeting location, in which it was suggested that the Southern and Central zones attend the same location, but instead of holding it in Nashville, change it to Branson, Missouri. Mr. Northcutt indicated that moving the meeting to Branson would result in increased hotel and travel costs to the Board members, and since Branson did not have a close airport that could allow for convenient travel, this would not be a feasible option. As such, he indicated the joint meeting should be held in Nashville as previously agreed. Mr. Lingerfelt agreed and requested a motion on the matter. Mr. Caughman made the motion to have the joint meeting in Nashville as previously agreed. This was

seconded by Ms. Braly. The motion carried unanimously. Mr. Lingerfelt then requested Ms. Moulder to inform Dr. Turner of the Board's vote.

REVIEW OF EXAM PROCEDURES AND APPLICATIONS

The Board discussed the three options on exam approvals where the Board, Ms. Moulder, or the NCEES could approve an exam applicant.

The Board decided that they would continue to review all applications to take the FS exam. Once Board approval is granted an applicant then would register with NCEES to schedule to sit for the exam at any Pearson Vue site.

LETTER TO THE BOARD FROM LARRY DOSS

Mr. Northcutt received a letter from Larry Doss asking that the Board reconsider putting the "10 Year Rule" back into effect to allow applicants that do not have college degrees to apply with experience only. He mentioned that Mr. Doss would have to be informed of the misunderstanding some individuals had with regard to having ten years of 'licensed practice' rather than ten years of 'surveying experience', and of the Board Policy regarding application of Tenn. Code Ann. § 62-18-109(c). He recommended the Board's administrative director acknowledge the letter and inform Mr. Doss of the current Board Policy. Mr. Lingerfelt also mentioned that he had requested a list of facilities and exams that could be taken in Tennessee to satisfy the Boards existing policies on Education to be distributed. He then suggested that a suitable response be sent back to Mr. Doss' letter that included the current Board Policy.

MAP AND PLAT STANDARDS AS TO LEGIBILITY

The Board discussed legibility of maps and plats as they related to the Standards of Practice Rule 0820-3-.07(1) (b) which reads:

(b) A Survey Map or Survey Plat shall have a title and contain the following information:

1. A descriptive location of the property, or vicinity map, and a corner of the property must be tied by bearing and distance either:

- to a corner of a subdivision, or*
- to a tract from which property is carved, or*
- to a permanent identifiable corner, or*
- to a nearby permanent identifiable reference point.*

A corner of the property may be tied to the nearest road intersection by distance only.

Mr. Lingerfelt expressed a concern regarding mapping legibility. He pointed out that currently, there were much better methods of producing a plat, and that Georgia had begun working with registrants to have their maps and plats look legible at all resolutions and zoom views. There was some additional discussion on this topic, but any additional action was deferred to properly noticed agenda items.

There being no further business for the day, the meeting was adjourned at 2:30 p.m. on August 1, 2013.

Day Two, August 2, 2013

Mr. Lingerfelt called the meeting to order at 9:13 a.m.

The Board considered applications from Land Surveyors for the October 2013 examination.

The Board **approved** the following applications:

Ryan Matthew Carlile
Eric Wayne Price
Nicholas Blaine Stephens
Gentson Crawford Weems
Buddy Ray Curtis
Mack Rains Ashburn
Edward Caldwell Burchett
Jonathan Lee Dodd
Christopher Lyle Goetz
Wesley Earl Griggs
Collin Joseph Moyers
Wayne Evans Shanks
Bryan Timothy Sauceman
Trevor A. McMann
Nolan Randall Carmack
William Russell Blackwell
Jeffrey Scott Evans
Joshua Aaron Meeks
Jonathan Cory George
Mark Edward Patterson
Myron Lavell Tipton

The Board **denied** the following applications:

Justin Alan Parrish
Jared Starland Knight
Shea Lane Wales
Harry Pinkston Dike
William David Porter III
Steven Richard Conti
William Logan McCraw
Lee Doyle Long III
John Michael Wallace
James Michael Powers
Christopher Drew Pesnell

Mr. Lingerfelt asked the Board to vote on the number of PDHs the Board members may be granted for their participation at the Board meeting from the past two days. It was agreed that a total of 6 hours was appropriate. Mr. Northcutt made a motion to grant each Board member present a total of 6 PDHs for their attendance on both days. The motion was seconded by Ms. Braly. The motion carried unopposed.

There being no further business, the meeting was adjourned at 11:03 a.m.