



TENNESSEE BOARD OF EXAMINERS FOR LAND SURVEYORS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831

**Board Meeting Minutes for January 25, 2018
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Board of Examiners for Land Surveyors met on January 25, 2018 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Caughman called the meeting to order at 9:00 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Jay Caughman, Tim Lingerfelt, Jackie Dillehay

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Roxana Gumucio, Sarah Mathews, Robyn Ryan (teleconference), Jamey Carney

ROLL CALL/NOTICE OF MEETING/WELCOME

Mr. Caughman called the meeting to order, then read the notice of meeting into the record as follows: "Notice of the January 25, 2018 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on January 17, 2018". Mr. Caughman welcomed all of those in attendance and thanked the support services staff for their continued efforts in providing administrative support.

AGENDA

Mr. Dillehay put forth a motion to approve the agenda as published, which Mr. Lingerfelt seconded. The motion passed unanimously.

MINUTES

After a brief review of the minutes from the Board's October meeting, Mr. Lingerfelt put forth a motion to adopt them as written. Mr. Dillehay seconded, and the motion passed unanimously.

EDUCATION REPORT

The Board reviewed the latest courses recommended for approval by their education panel. More information regarding the content and nature of instruction was requested regarding the course entitled, "Human Relations Principles". Mr. Lingerfelt made a motion to accept the advisory education panel or education review board's recommendation and approve the courses with the exception of "Human Relations Principles" by Wilson & Associates. Mr. Dillehay seconded. The motion passed unanimously.

ROBERT'S RULES OF ORDER

Mr. Dillehay motioned to accept Robert's Rules of Order as the standard of practice governing board business transactions and procedures during this year's meetings. Mr. Lingerfelt seconded. The motion passed unanimously.

LEGAL REPORT



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
OFFICE OF LEGAL COUNSEL
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LEGAL REPORT

TO: Tennessee Board of Examiners for Land Surveyors
FROM: Robyn Ryan - Assistant General Counsel
DATE: January 25, 2018
RE: Legal Report

1. 2017065591

Respondent:
License Status: ACTIVE (Continuing Ed. Exemption)
First Licensed: 2/09/1995
License Expiration: 12/31/2017
Disciplinary History: None found.

Complainant is owner and states that land was surveyed by Respondent. Complainant states that survey was not acceptable to buyer as engineer for buyer stated survey was incorrect, drawing did not show how many acres, number on drawing did not add up to one acre, and did not provide source of information.

Respondent states Complainant never requested a deed description but wanted an explanation of how the property was surveyed. Respondent states Respondent was hired to mark the property corners and make a drawing. Respondent states complaint is not specific only that the property does not contain exactly one acre.

REVIEWER FINDINGS:

0830-03-.06(9) On survey furnished by Complainant, area is missing
0820-03-.07(b)1 Descriptive location or vicinity map is missing

0820-03-07(c) Source of reference for north arrow is missing
0820-03-.07(j) Owner of adjacent owner to the north is missing.

Reviewer states survey as provided by Complainant, signed and dated, has the missing items as stated above. Reviewer states surveyors copy, not signed or dated, does show area and owner's name.

Recommendation: \$1,000 civil penalty for violation of T.C.A. 62-18-116(b) incompetency, misconduct or gross negligence in the practice of land surveying. 8 hours of continuing education in the standards of practice.

BOARD DECISION: The Board concurred with the recommendation for the Consent Order, but amended the continuing education to two (2) hours of continuing education in the standards of practice and added a four (4) hour course in ethics.

2. 2017071551

Respondent:

License Status: ACTIVE (Continuing Ed. Exemption)

First Licensed: 10/31/1980

License Expiration: 12/31/2019

Disciplinary History: None found.

Complainant hired Respondent for survey and negotiated a price of \$3,500. Complainant states after survey was completed, Respondent charged \$7,000 and the parties renegotiated a price of \$5,000. Complainant states when survey received, survey states that Complainant had 14.21 acres but the county has land at 30 acres. Complainant states Complainant has attempted to contact Respondent but Respondent has not responded.

Respondent states Respondent did contact Complainant to discuss issue and states Respondent was not aware of any calls to Respondent not answered. Respondent states that in the survey, Respondent noted the acreage as 14.241 for Complainant's portion inherited from parents, 5.197 acres for a second tract contiguous with property also inherited from parents to sister. Respondent states Complainant states error in acreage is due to fairly recent survey by Tennessee Wildlife Resources Agency or a third party on their behalf.

REVIEWER FINDINGS:

Reviewer found no violations of laws or rules, no incompetence, no conflict of interest and no misconduct. Reviewer believes issues between Complainant and Respondent will be resolved, but suggests Respondent update regarding resolution.

Recommendation: Dismiss

BOARD DECISION: CONCUR

3. 2016055171

Respondent:

License Status: ACTIVE (Continuing Ed. Exemption)

First Licensed: 10/28/1978

License Expiration: 12/31/2019

Disciplinary History: 201200081 closed with Consent Order for \$2000.00

This complaint was opened administratively to investigate allegations that were listed in a newspaper article about the respondent. The newspaper alleged that respondent had been charged with multiple felonies and misdemeanors including but not limited to; aggravated statutory rape, sexual exploitation, aggravated assault, theft, coercion of a witness, and carrying a fire arm in a government building.

A grand jury indicted the respondent on October 24, 2016 for a majority of the charges. The respondent has until January 23, 2017 to either settle with the District Attorney's Office or the case will be set for a jury trial.

Recommendation: Discuss

Board Decision: The Board decided to place this case in litigation monitoring status by sending a Consent Order stating that no action will be taken if Respondent's criminal case is dismissed, but if the Respondent is convicted, the Respondent is agreeing to the automatic revocation of Respondent's license.

UPDATE: Respondent did a pre-trial agreement and received eight years of diversion which is not a conviction. Should he complete the eight years of diversion, he can petition the court for the matter to be expunged. If he does anything criminal in violation of the diversion, the matter can go forward.

Recommendation: Close and flag should the diversion fail.

BOARD DECISION: CONCUR

In response to the United States Coordinate System changes in federal statute that would not be effective till 2022, Mr. Caughman inquired about the process for submitting revisions to TCA, Title 66, Chapter 6 which governs the "Tennessee Coordinate System". Ms. Mathews informed the Board that any legislative proposals for the 2022 legislative sessions would need to be submitted by June 2021.

The Board requested an update regarding Rule 0820-03-.11 "Global Position System Surveys". The revisions provided by the Board at the last meeting have already been submitted and will be effective April 11, 2018, if there are no further revisions provided by the TN Legislature.

The Legal Division noted that there have been no new legislative bills effecting Registered Land Surveyors introduced in this legislative session. Legal further noted that the filing deadline is Friday, February 2, 2018.

DIRECTOR'S REPORT

Director Gumucio provided the Board with a detailed accounting of budget revenue and expenditures, to include FY 2017 year end numbers. Director Gumucio further noted that fiscal year 2017 reflects a net deficit; however, this year is a renewal year which will cover that deficit and should trend towards a continued surplus in the overall budget. In regard to "Legal Costbacks", the Board was informed that the Legal Division will track their time and submit billable hours in order to provide a more accurate accounting of that expense and a more accurate reflection of their time spent on each program.

Computer-Based Testing (CBT) vendor, PSI, went live in offering the Tennessee Specifics of Land Surveying" (TS) exam on September 11, 2017. Since then, three (3) out of three (3) applicants who took the exam have passed. There are currently fifteen (15) applicants approved to take the exam. Director

Gumucio informed the Board that PSI would like to review the TS exam in June with a small group (approximately 3-4) of subject matter experts (SME's).

Director Gumucio updated the Board regarding this year's renewal cycle and detailed the administrative support's efforts to remain ahead of the enormous volume of license renewal applications which require all continued education (CE) to be submitted for processing. For the next renewal cycle and forward, the Board expressed that they are in favor of allowing a limited continued education audit per renewal cycle, in lieu of the current standard which requires a one hundred percent (100%) audit per renewal cycle. The Legal Division will also draft a letter to those registrants that have failed to submit an application for renewal for this renewal cycle informing them of their responsibilities under the law and consequences if the renewal requirements are not ultimately satisfied within the one (1) year grace reinstatement period.

A brief break in the director's report was permitted in order to allow the following former registrants to appear before the board:

Jeff Kimbro appeared before the Board to request a resolution to the expiration of his license on December 31, 2015. Mr. Lingerfelt motioned to have Mr. Kimbro reapply, the examinations waived, and an administrative complaint opened due to the unlicensed activity during the period of expiration. Mr. Dillehay seconded. The motion passed unanimously.

Bobby Moore appeared before the Board to request a resolution to the expiration of his license on December 31, 2015. Mr. Lingerfelt motioned to have Mr. Moore reapply, the examinations waived, and an administrative complaint opened due to the unlicensed activity during the period of expiration. Mr. Dillehay seconded. The motion passed unanimously.

Director Gumucio informed the Board that the National Council of Examiners for Engineering and Surveying (NCEES) Northeast Zone Vice President Paul Tyrell will attend the next board meeting on April 12, 2018. Mr. Lingerfelt mentioned that the Board of Examiners for Land Surveyors historically meets with the Tennessee Board of Architectural and Engineering Examiners, Engineer Committee, once a year as well. Director Gumucio informed the Board that the joint meeting will take place at the next board meeting.

Regarding the NCEES Southern Zone Interim Meeting in Charlottesville, VA, from April 19-21, 2018, Mr. Dillehay motioned that the board members be permitted to attend as funded delegates. Mr. Lingerfelt seconded. The motion passed unanimously.

NEW BUSINESS

Director Gumucio announced that a public member was selected to serve on the Board and that the new member, Jed McKeehan, will be joining the Board at the next meeting.

Anthony Rhodes appeared before the Board requesting a review of program to determine if it would meet education requirements necessary to become a licensed land surveyor. The Board stated that it would review the program further and respond on whether it meets Category 2 (BS + 24 hours in Surveying) requirements for licensure.

Doug Vaught and Scott Carter from the Tennessee Association of Professional Surveyors (TAPS) provided a report and requested further clarification regarding the continuing education (CE) requirements which include Tennessee Minimum Standards and Ethics.

With the approval of the Board, Mr. Caughman introduced an example plat with instructions as a guideline for future plat submissions at the time of application review.

Director Gumucio updated the Board that newsletters will not be produced. Without an education recovery fund created by statute, producing industry updates is outside the mandate of regulatory boards and will be left to the professional associations.

APPLICATION REVIEWS

Matthew Lupo's application for licensure was approved by the Board and executive management.

Before closing, the Board invited the administrative staff to attend the Tennessee Association of Professional Surveyors (TAPS) 50th Anniversary Conference & Exhibition in Murfreesboro, TN, on March 8, 2018. During Session 1, the Board would like the administrative staff to assist in answering questions presented to the Board through a moderator and to address issues that are pertinent to licensed land surveyors and TAPS membership.

The Board awarded itself three (3.0) PDH hours for the day's meeting. There being no other new business, Mr. Caughman adjourned the meeting at 2:00 p.m.