



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

**Board Meeting Minutes for January 24, 2019  
First Floor Conference Room (1-B)  
Davy Crockett Tower**

The Board of Examiners for Land Surveyors met on January 24, 2019 in the first floor conference room of Davy Crockett Tower in Nashville, Tennessee. Mr. Tim Lingerfelt, Board Chairman, 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, Jed McKeenan

**STAFF MEMBERS PRESENT:** Roxana Gumucio, Ashley Geno, Jamye Carney

**ROLL CALL/NOTICE OF MEETING**

Mr. Lingerfelt called the meeting to order and then read the notice of meeting into the record as follows: "Notice of the January 24, 2019 meeting of the Board of Examiners for Land Surveyors was posted to the Board of Examiners for Land Surveyors website on January 17, 2019".

**ADOPT AGENDA**

Mr. Caughman made a motion to adopt the agenda as written, but to allow for flexibility. This was seconded by Mr. Dillehay, and the motion passed unanimously.

**MINUTES**

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

**ROLL CALL**

Director Gumucio took roll call noting all board members as present.

**ROBERTS RULE OF ORDER**

Mr. Caughman made a motion to agree and adhere to Roberts Rule of Order. This was seconded by Mr. Dillehay, and the motion passed unanimously.

## **APPEARING BEFORE THE BOARD**

Matio Forte of TAPS appeared before the board to present an app developed that could be utilized by license Land Surveyors. The application designed is intended to test the knowledge and possibly identify educational needs of Land Surveyors in Tennessee. Additionally, the app could be used for licensees to ask questions; however, it was determined that prior to using and/or launching this app, it would need further discussion and guidance.

Mr. John Winter, President of TAPS, appeared before the board to request a simplified description of education requirements. Director Gumucio explained that the requirements cannot be simplified due to the definitions outlined in Tennessee rules. Mr. Lingerfelt also noted that the requirements are identified in the five (5) pathways for licensure.

## **EDUCATION REPORT**

Mr. Caughman made a motion to approve the education report (with the exception of the pending education report) as written, Mr. Dillehay seconded this motion, and the motion passed unanimously.

Mr. Caughman made a motion to approve the amended pending education report for William H. Thompson. Mr. Dillehay seconded this motion, and the motion passed unanimously. The PDH's were amended as follows:

Class	Original PDH	Amended PDH
Introduction to GPS	8	4
Advanced GPS	8	4
Geocaching and Dendrology	8	8
CAD Drafting 101	8	2
CAD Drafting 201	8	2
CAD Drafting 301	8	4
Opus Solutions	4	4
Retracing Surveys	8	8
Spiral Curves	4	2
Horizontal Curves	4	2
Vertical Curves	4	2
Trigonometry	8	2
Coordinate Geometry	8	4
Survey File Management	4	DENIED
Time	4	DENIED
Standards of Practice	2	1

Mr. Caughman also made a motion to allow the Land Survey board to enter the LS number system into CORE. This was seconded by Mr. Dillehay, and the motion passed unanimously.

***The board broke for a ten (10) minute break***

## EDUCATION REPORT CONTINUED

Mr. Caughman made a motion to approve the Lucas & Company, LLC education report pending PDH review by legal. This motion was seconded by Mr. Dillehay and the motion passed unanimously.

### LEGAL REPORT (*Presented by Ashley Geno*)

1. 2018074051

Respondent:

License Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

Summary: Complainant alleged the Respondent may be engaging in the unlicensed practice of land surveying. Based on this allegation, the case was sent for investigation and review.

In response to the investigation, the Respondent provided an affidavit and documents explaining what work he performs (sign surveys). These items were sent to the expert reviewer who found that the Respondent was not (and is not) practicing land surveying.

The expert reviewer, however, did find an issue with the use of the phrase "property surveys & services" in the Respondent's business name on his business card and the use of "as built" by a third-party website. As for the first item, the business card clearly indicated that the Respondent performs sign surveys. As for the second item, we have no evidence that the Respondent controls the terms utilized on the third-party website.

Additionally, the pending complaint is not the first complaint the Complainant has filed against the Respondent. In 2012, the Complainant filed a complaint against the Respondent making essentially the same allegations. That complaint was presented in August 2012 as follows:

This matter was previously presented at the April 12, 2012 Board meeting, the substance of which was: *The complaint alleges unlicensed practice of land surveying by advertising to offer "detailed technical sign surveys," "as-built surveys" and "construction surveys" in various online media; the Respondent company also appears in phone indexes under the designation of "surveying, engineers, land surveyors" in violation of Tenn. Code Ann. §§ 62-18-101(b) and 62-18102(3). A detailed explanation of actual services provided was received by the Respondent. The Respondent states that the "primary business is nationwide commercial sign surveys," in which the company is "contracted by major sign manufacturers to survey sites for replacement of existing signage or adding new signage." The Respondent provides "digital photographs of property, approximate measurements of any building on the property," and provides the manufacturer "exact measurement of all signage on the property of the building," and "finally we provide the client with an 'as-built' survey package as the end product with information for these companies to secure permitting." The Respondent acknowledges*

*that he doesn't have the credentials of expertise to provide land surveying as defined by the Board. The listing in the phone index under "surveying, engineers and land surveyors" was done by the publisher and without the Respondent's participation. There is no complaint history for this Respondent. The determination of the Board was that the Respondent is to be notified that he is to comply with all Board law and rules and the Respondent needs to provide proof to the Board that he has complied.*

UPDATE: An acknowledgement letter was received in Legal dated May 25, 2012 confirming the Respondent's intention to comply with all of the Board's law and rules and his correspondence with the publishing authority, whereby that publication has moved the Respondent's advertisement from "surveying, engineers, land surveyors" to "signs" as requested by the Respondent.

At that time, the Board agreed that all circumstances had been met and voted to close the complaint against the Respondent.

**Recommendation: Close.**

**BOARD DECISION: After some discussion, the Board rejected the recommendation of Counsel and elected to send a Letter of Instruction outlining the Board's concerns over the Respondent's business card in that it may imply that Respondent offers professional land surveying services and suggest that Respondent include a disclaimer on the business card that Respondent is not a licensed land surveyor.**

1. 2018078231

Respondent:

License Status: ACTIVE

First Licensed: 10/25/1991

License Expiration: 12/31/2019

Disciplinary History: None

Summary: Complainant alleged that the Respondent prepared a survey which incorrectly included a portion of her property. In response to this allegation, the Respondent indicated it was hired by a County Planning and Engineering Department to prepare plans for roadway improvements, which included establishing both the existing and proposed rights-of-way, and determining slope easements and temporary construction easements. The Respondent found that additional right-of-way was needed on the Complainant's tract (along with several other properties). He prepared descriptions of the right-of-way and easement acquisitions for each tract and sent these to the County Legal Department for their use.

The Respondent believes the Complainant simply did not understand the terminology in the Temporary Construction Easement description and misunderstood the description for a line that leaves one property and runs through her property. While the line does run through her property because it is an edge of an easement on her property, it does not mean that her property is being transferred to anyone.

This case was sent for review and the reviewer agreed with the Respondent that the Complainant simply did not understand the survey or the legal description. The reviewer found no violations of laws or rules.

**Recommendation: Close.**

**BOARD DECISION: CONCUR**

2. 2018086611

Respondent:

License Status: – ACTIVE

First Licensed: 2/6/2007

License Expiration: 12/31/2019

Disciplinary History: None

Summary: Complainant alleged he contacted Respondent to obtain a copy of a land survey for a house he was buying. Complainant indicated the Respondent stated he would look for it and call him back, but never did. The Complainant claims he contacted the Respondent multiple times over a three (3) week period.

In response to these allegations, the Respondent stated the Complainant contacted his office to obtain a copy of a survey performed in 1985 by another land surveyor, from whose wife he purchased the surveying firm in 2010. He told the Complainant he would look for the survey, but was unable to search for the file as quickly as the Complainant was hoping. Additionally, during his search, he discovered the drawing number stated in the deed did not match anything the surveyor did in the county at issue in 1985. The Respondent also discovered the tax card for the property indicated a newer survey had been performed and recorded. After researching into this, the Respondent was able to locate the survey. He indicated he told the Complainant to contact his title company and make them aware of the newer survey.

**Recommendation: Close.**

**BOARD DECISION: CONCUR**

#### **REPRESENTS**

3. 2018042101

Respondent:

License Status: ACTIVE, NOT APPLICABLE

First Licensed: 10/28/1978

License Expiration: 12/31/2019

Disciplinary History: None

Summary:

Complainant alleges that the survey they received does not meet the minimum State requirements.

The Respondent responded to the complaint and states that he regrettably failed to include several state minimum requirements on the survey. Respondent states that the failure to list these requirements was an error on his part and was not intentional. He lists the missing requirements as:

- 1) 0820-03.06 (3)
- 2) 0820-03.06 (9)
- 3) 0820-03-07 (1)(b)(5)
- 4) 0820-03-.07 (1) (d) Bearing missing along north line
- 5) 0820-03-.07 (1) (j)

Respondent further states that the survey met the accuracy requirements for a Category II survey.

Recommendation: Letter of warning.

**BOARD DECISION: Table and send out for expert review**

**New Information: Reviewer agreed with Complainant that the plat did not meet the minimum state standards. Reviewer noted same violations Respondent did.**

**New Recommendation: Letter of warning.**

**NEW BOARD DECISION: CONCUR**

4. 2018035811

Respondent:

License Status: UNLICENSED

First Licensed: N/A

License Expiration: N/A

Disciplinary History: None

This complaint was originally presented to the Board at its July 26, 2018 meeting as follows:

*This complaint alleges potential unlicensed activity by Respondent 1.*

*Complainant alleges:*

- *Complainant called a land surveying company, owned by Respondent 2, and spoke to the Respondent 1 over the phone.*
- *Complainant hired Respondent 1 to perform a landmark survey on his property that was needed to obtain a permit in order to build a front porch and handicap ramp.*
- *Respondent 1 came to Complainant's home on March 21, 2018 to perform the survey.*
- *Respondent 1 told Complainant's wife that Respondent 1 had completed the survey and thus she paid him in full (\$900).*
- *Complainant states Respondent 1 never finished the job and realizes it was a mistake to pay Respondent 1 in full before the job was complete.*

- After failed attempts of contacting the Respondent 1 occurred, Complainant did some research of his own and found out that the company name on the invoice Complainant received was owned by the Respondent 1.
- Therefore, Complainant contacted the actual owner of the company, Respondent 2, who is a licensed land surveyor.
- Complainant alleges that Respondent 2 promised to finish the job himself if needed after learning that Respondent 1 used his invoice to do a side job of his own.

Respondent 2 filed two (2) separate responses in regards to the complaint filed against Respondent 1 and 2. Respondent 1 is an unlicensed individual and we have not received any response from Respondent 1 at this time.

Respondent 2 stated the following in response to the complaint:

- Respondent 2 was completely unaware of this engagement and did not authorize Respondent 1 to engage anyone on behalf of himself or his company.
- Respondent 1 was not authorized to engage clients on behalf of the company.
- Respondent 1 worked as a laborer for Respondent 2's company in various capacities over the years but has never been granted the authority to negotiate or act on behalf of the company.
- Respondent 2 had no knowledge of the Complainant's project until he was directly contacted by the Complainant.
- Respondent 2 states that neither he nor his company have been paid for services rendered to the Complainant. (It appears to Counsel this money was pocketed by Respondent 1).
- Respondent 2 states that it is his understanding that Respondent 1 stole an old invoice from Respondent 2's company and prepared a handwritten receipt for the \$900 surveying job.
- Respondent 2 stated that in light of the fraud, Respondent 2's company will pay the Complainant the \$900 to resolve this matter. Counsel spoke with Respondent 2's attorney who stated a check was mailed to the Complainant's.

Upon review of this matter and after speaking with Respondent 2's attorney, Counsel believes that Respondent 2 had no knowledge of this survey by Respondent 1 until he was contacted by the Complainant.

Recommendation:

- Respondent 1 – Counsel recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.
- Respondent 2 – Counsel recommends this matter be CLOSED WITH NO ACTION.

BOARD DECISION: CONCUR AS TO RESPONDENT 1 AND RESPONDENT 2

**New Information: Respondent passed away on September 6, 2018.**

**New Recommendation: Close.**

**NEW BOARD DECISION: CONCUR**

## **DIRECTOR'S REPORT**

### ***Budget***

Director Gumucio provided a detailed accounting of revenue and expenditures for October, November and December 2018. Director Gumucio explained that there were bigger than normal costbacks resulting in the current fiscal health for the past three, noting that along with the typical admin costbacks, there were costbacks for annual database and equipment fees.

### ***Complaint Information***

Director Gumucio informed the board members that there are currently seven (7) open complaints, all of which they are aware of. This was information was provided to give the board members an idea of how long each complaint has been open and its current status.

### ***PSI Update***

Mr. Caughman made a motion to award board subject matter expert (SME) members 16 PDH's for work thus far. This motion was seconded by Mr. Dillehay, and the motion passed unanimously.

### ***Kentucky Elimination of the State Specific Exam***

The board had a discussion in regards to the elimination of the state exam for Land Surveyors in Kentucky. It was noted that the state of Tennessee is not in a position to follow or implement the same due to the current standards set forth in the five (5) pathways for Land Surveyor licensing.

***The board broke for lunch and returned at 1:15 p.m.***

## **NEW BUSINESS**

### ***LS Audit and CE Renewals***

The board had a discussion in regards to the percentage for upcoming audits noting that the percentage should begin at 10% and reduce to 5% in the future. Additionally, any licensee who renews late (between 1 – 31 January) will be subject to audit (100%).

### ***Board Representative to NCEES Presidents Assembly February***

Mr. Caughman made a motion for Chairman Lingerfelt to attend. This was seconded by Mr. Dillehay and the motion passed unanimously.

### ***State Plan Coordinates 2022***

Mr. Caughman stated that he would make a formal presentation to TAPS to request that they become a sponsor in moving forward the legislative change required regarding the State Plans Coordinates 2022.

### ***NCEES (May 16 – 19, 2019, Boise, Idaho)***

Mr. Caughman made a motion for the three funded board members to attend the upcoming NCEES in May 2019. This was seconded by Mr. Dillehay and the motion passed unanimously.

**APPLICATION REVIEWS**

*\*Mr. McKeehan exited the meeting during application reviews\**

<b><u>Name</u></b>	<b><u>Board Decision</u></b>
William Morel	Deferred (letter will be sent with recommendation)
Jamey August Henson	Approved
Aaron Solomon Fleenor	Deferred (letter will be sent with recommendation)
Timothy Leigh Fisher	Approved
Joshua Wayne Miller	Deferred (letter will be sent with recommendation) *Board members also requested that Mr. Miller appear before the board during the April 2019 meeting to discuss Kentucky disciplinary actions.

**ADJOURNMENT**

Mr. Caughman made a motion to award the board four (5.0) PDH hours for the day's meeting. This was seconded by Mr. Dillehay, and the motion passed unanimously. There being no other new business, Chairman Lingerfelt adjourned the meeting.