



BOARD OF EXAMINERS FOR LAND SURVEYORS  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TENNESSEE 37243  
615-741-3600

**February 4, 2016 Minutes  
First Floor Conference Room (1-B)  
Davy Crockett Tower**

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 10:00 a.m. and the following business was transacted.

**BOARD MEMBERS PRESENT**

Galyon Northcutt  
Jay Caughman  
Tim Lingerfelt

**BOARD MEMBER ABSENT**

Sue Braly

**STAFF MEMBERS PRESENT**

Brian McCormack, Michael Driver, Nikole Avers, John Cothron, 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 January 20<sup>th</sup>, 2016.

**ADOPT AGENDA**

Mr. Caughman made a motion to adopt the agenda. This was seconded by Mr. Lingerfelt. The motion carried unopposed.

**MINUTES**

The minutes were reviewed and Mr. Caughman made a motion to accept the minutes as written. This was seconded by Mr. Lingerfelt. The motion carried unanimously.

**BUDGET REPORT**

Assistant Commissioner, Brian McCormack presented a summary of the board's expenses and revenue for the fiscal year including a projection for the anticipated costs to the program.

**NCEES MEETING/ SOUTHERN ZONE MEETING UPDATES**

John Cothron, Executive Director of the Architect and Engineering Board stopped by the meeting to give the land surveyor board members an update on the upcoming Southern Zone NCEES conference.

## **LEGISLATIVE UPDATE**

Michael Driver, Deputy General Counsel, Regulatory Boards & Consumer Affairs, provided a legislative update to the board members on HB 2496/SB2594 which requires that denials for felony conviction be based on the applicant's fitness for that profession and HB 1613/SB1505 which would extend the sunset of the board until June 30, 2021.

## **WILLIAM SMITH REVIEW**

Mr. William Smith who had submitted an application that had been denied by the Board earlier because the plats submitted were out of date, requested they reconsider based on his re-submitted plats made to Tennessee standards as requested. He also shared more recent information on himself and his professional endeavors for the Boards consideration. Mr. Lingerfelt and Chairman Northcutt had reviewed the plats and agreed that he could now take and pass the TS exam to be reinstated.

## **EDUCATION REPORT**

Mr. O'Brien presented the members with a copy of the newly formatted list of approved education providers and courses since the last meeting. The new courses that had been reviewed and approved were from Alabama Society of Professional Surveyors, Dyersburg State Community College, Surveyors Educational Seminars, J.E. Campbell and Associates, Halfmoon Education, Inc., C. Barton Crattie, Pellissippi State Community College, Tennessee Associate of Professional Surveyors 2016 TAPS Conference, and KERR Seminars. The newly approved courses had been designated approved CER numbers and populated to the website on proper approval from the education reviewers.

## **LEGAL REPORT**

### **1. Case No.: L15-SUR-RBS-20150217461**

*Complaint History:* One Dismissed in 2010.

This complaint was received after Complainant had obtained a civil judgment of \$10,000 against landowners who used Respondent to survey land and determine the boundary lines between their and Complainant's property. Complainant was out of town and when he returned home he found lumber had been harvested from his land without his approval or knowledge. Defendants based their conclusion of where the boundary line was based on Respondent's survey which was shown to be erroneously done in court. Respondent ignored a natural monument called for in Complainant's deed and instead used tax maps to determine the boundary and ignored an old fence row. Complainant's expert witness and surveyor in court testified about the deficiencies in Respondent's survey and the Court found in Complainant's favor. Respondent was not a named defendant in this matter, but the record shows that his survey was improperly conducted which led to damages against the Complainant.

**Recommendation:** Authorize formal and send a Consent Order with a civil penalty in the amount of \$1,000 to resolve the complaint. \$1,000 for misconduct in the practice of land surveying in violation of 62-18-116(B).

**DECISION:** Authorize formal and send a Consent Order with civil penalty in the amount of \$1,000 in addition to a Voluntary Suspension of the license until such time as Respondent shows proof that he has attended 16 hours of continuing education courses in "Boundary Surveys and/or Boundary Law" from the approved list of courses and providers as approved by the Board. Also, issue a letter to the Register of Deeds in Respondent's home county informed them of Respondent's Suspension if/when Respondent signs the Consent Order.

## **2. Case No.: L15-SUR-RBS-2015018861**

*Complaint History:* None.

Consumer complaint alleges that Respondent conducted a survey and put markers on her land that failed to account for 6-8 acres she claims is hers. It is apparent based on Respondent's response and the evidence that Respondent did not conduct the survey and that to avoid any conflict of interest he hired another licensed surveyor to do the survey. Any complaint should be opened against the surveyor who actually performed the work and not the Respondent.

**Recommendation:** CLOSE. Establish Complaint against proper party.

**DECISION:** CLOSE and establish a complaint against the proper party.

### **ADDENDUM**

Mr. Kilgore informed the Board that the rule for GPS standards was making its way through the legal process at this time. He also shared that after consideration of the rules in place, it would appear that newly licensed Surveyors were exempt from CE the first year of their licensing. The Board also requested that legal request the Attorney General's office for an opinion with regard to QBS for surveyors.

**Vote:** Mr. Lingerfelt made a motion that legal draft a letter asking the AG's office for an opinion on QBS for Land Surveyors. This was seconded by Mr. Caughman. The motion carried unanimously.

### **APPLICATION REVIEWS**

The board reviewed approximately fifty (50) total applications for PLSIT and Land Surveyor applications and submitted their recommendations to the director for each candidate.

### **DIRECTOR'S REPORT**

Director Avers presented an alternate recommendation for applications by reciprocity or comity. The board discussed the application and made alternate suggestions. The board reviewed the website content and made recommendations for changes and updates. The newsletter and exam were also discussed.

### **TAPS COMMITTEE REPORT**

Chairman Northcutt presented the content of two letters written Mr. Cleveland, TAPS President, who shared the concerns of TAPS members regarding the two hours Ethics class required by licensees who had the age exemption in place. He also covered matters pertaining to the Minimum Standards Seminar that were offered at the local levels and would be covered several times at the Spring Conference. His letter ended with the TAPS

members negative views on the necessity of monumenting easements as most of them felt it would be good to make clients aware of the benefits of such a survey, but be sure their clients understood it was not strictly required unless requested by contract. Given these views he felt this could be discussed at some length at a future meeting.

Given the opinions shared in his letter, Mr. Lingerfelt made the suggestion that Director Avers and/or Mr. O'Brien attend a future TAPS meeting to explain first-hand, the rules on renewals and PDH requirements for surveyors before their next license renewal was due in 2017.

### **EXAMINATIONS**

The members suggested we invite the current proctor, Mr. Messier, to attend the July meeting to discuss the TS examination being held in-house at the Davy Crockett Tower.

### **PDH HOURS FOR THE MEETING**

**Vote:** A motion that 4hrs of PDH's be awarded for this meeting was made by Mr. Lingerfelt, and seconded by Mr. Caughman. The motion carried unanimously.

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There being no further business, Chairman Northcutt entertained a motion to adjourn by Mr. Caughman which was seconded by Mr. Lingerfelt, at 5:50pm