

BOARD OF EXAMINERS FOR LAND SURVEYORS

July 16, 2020

The Board of Examiners for Land Surveyors (Board) convened at 9:02 a.m. at 555 N. Cotner Blvd., Lower Level, Lincoln, NE with the following members present:

Virlyn S. Bolte, Chair  
Dennis L. Whitfield, Vice Chair  
Jerry G. Hain  
James W. Hawks  
Casey Sherlock, Ex-Officio Secretary

Absent: Mary L. Pro

Others present:  
Brent Jorgensen  
David Schmidt  
Gerri Monahan

Public notice of this meeting was given by publication in the *Lincoln Journal Star* on July 1, 2020. All items voted on were done so in the form of a roll call vote.

The Chair stated that this meeting was being held in compliance with the updated Nebraska Open Meetings Act (Act) and that a current copy of the Act was available on the table.

Agenda item #5 was moved ahead of agenda item #4 to accommodate LS.

Hawks moved and Whitfield seconded that the May 21, 2020 Board meeting minutes be approved.

Voting Aye: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion carried.

Hain moved and Hawks seconded that the Board go into executive session at 9:04 a.m. with the land surveyor (LS), Sherlock and Monahan present for the purpose of discussing Complaint 20-1 and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

Voting Aye: Hawks, Whitfield, Bolte, Hain.

Absent: Pro.

Motion carried.

Chair stated that the discussion in executive session would be limited to Complaint 20-1.

LS was dismissed.

Whitfield moved and Hain seconded that the Board return to regular session at 11:04 a.m.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Chair stated that no subject matter other than Complaint 20-1 was discussed in executive session.

Hawks moved and Hain seconded that the Board table any further action pending review of documentation and information submitted by LS.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

The Board will discuss the issue of Complaint 20-1 at its next meeting and at that time will determine if further investigation is necessary prior to making a final decision on the merit of the complaint. The profession of land surveying Nebraska is a serious matter due to it being in the best interest of the citizens of the State of Nebraska in order to safe guard life, health and property.

The Board took a break from 11:04 to 11:08 a.m.

Agenda item #7 was moved head of agenda item #4 to accommodate LS.

David Schmitz, LS 391, met with the Board and presented a letter in response to surveys signed and sealed by LS in Cass County in regards to compliance with the minimum standards for surveys in Nebraska.

Vice Chair Whitfield noted that no formal complaint had be filed, rather this was in regard to administering minimum standards for land surveying profession.

Schmitz explained each item:

Item #1 - Survey was refiled with actual measured distances.

Item #2 – Schmitz has been working with County Surveyor Jordan to rectify and revise the survey. Schmitz will reset corners and refile a corrected survey.

The Board suggested Schmitz provide narrative accordingly in order that others reviewing the survey know how surveyor determined items.

Item #3 – Two handouts were presented to the Board. Schmitz relied on prior survey by another LS. Neither survey accurately represented the true location of the line.

Board responded that it's your work and to work with in your control. Board instructed Schmitz to accurately determine the correct line and place monumentation on the line and provide evidence to the Board of the prior survey evidence to locate the line.

Item #4 – Correct rebar length was discussed.

Schmitz was excused.

Hawks moved and Hain seconded to send a letter to another LS asking to provide a copy of information relied upon by Schmitz's item #3 to determination the location and direction in order to establish the corners.

Absent: Pro.

Motion carried.

The Board requested the information in order to verify the accuracy of these surveys.

Whitfield moved and Hain seconded to send a letter to Schmidt advising him Board is seeking additional information for item #3.

Voting Aye: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion carried.

These items will remain open until all of the survey issues have been revised and submitted to the Survey Record Repository (SRR) and/or the Board is satisfied with LS compliance. The Board will review any or all of revisions and resubmissions of surveys at their next meeting.

Whitfield moved and Hawks seconded that the Board go into executive session at 12:05 p.m. with Sherlock and Monahan present for the purpose of discussing Complaint19-2 and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

Voting Aye: Hawks, Whitfield, Bolte, Hain.

Absent: Pro.

Motion carried.

Chair stated that the discussion in executive session would be limited to Complaint19-2.

Hawks moved and Whitfield seconded that the Board return to regular session at 12:21 p.m.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Chair stated that no subject matter other than Complaint 19-2 was discussed in executive session.

Hawks moved and Whitfield seconded that Secretary Sherlock send certified/return receipt letter to LS stating that compliance with January 24 and May 22, 2020 letters has not been met. Compliance in correcting and filing of surveys is requested by August 30, 2020. Failure to comply with the Board's order will result in being placed on probation or scheduling of a formal hearing at the next meeting.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Complaint 19-2 will remain open until all surveys have been revised and submitted to the SRR and the Board is satisfied with compliance by the LS.

Whitfield moved and Hawks seconded that the Board go into executive session at 12:28 p.m. with Sherlock and Monahan present for the purpose of discussing Unlicensed Practice #2 and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

Voting Aye: Bolte, Hain, Hawks, Whitfield.

Absent: Pro.

Motion carried.

Chair stated that the discussion in executive session would be limited to Unlicensed Practice #2.

Hawks moved and Hain seconded that the Board return to regular session at 12:30 p.m.

Voting Aye: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion carried.

Chair stated that no subject matter other than Unlicensed Practice #2 was discussed in executive session.

Hawks moved and Hain seconded that the Board close Unlicensed Practice #2.

Voting Aye: Hawks, Whitfield, Bolte, Hain.

Absent: Pro.

Motion carried.

Hain moved and Hawks seconded that the Board go into executive session at 12:33 p.m. with Sherlock and Monahan present for the purpose of discussing Lack of Minimum Standards by Land Surveyors and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Chair stated that the discussion in executive session would be limited to Lack of Minimum Standards by Land Surveyors.

Hain moved and Hawks seconded that the Board return to regular session at 12:58 p.m.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Chair stated that no subject matter other than Lack of Minimum Standards by Land Surveyors was discussed in executive session.

Hain moved and Whitfield seconded that the Board continue to monitor the LS and review of progress and compliance with the Nebraska revised Statutes pertaining to land surveying in Nebraska. Compliance of filing of all surveys as required by law is hereby ordered by the Board and to be completed by the LS by August 30, 2020. Failure to comply will result in placing LS on probation and scheduling of a formal hearing at the Board's next meeting.

Voting Aye: Bolte, Hain, Hawks, Whitfield.

Absent: Pro.

Motion carried.

Hain moved and Hawks seconded to amend previous motion to delete probation verbiage.

Voting Aye: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion carried

Hain moved and Hawks seconded to amend Complaint 19-2 motion to delete probation verbiage.

Voting Aye: Hawks, Whitfield, Bolte, Hawks.

Absent: Pro.

Motion carried.

Whitfield moved and Hawks seconded that the Board go into executive session at 1:13 p.m. with Sherlock and Monahan present for the purpose of discussing Minimum Standards and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Chair stated that the discussion in executive session would be limited to Minimum Standards.

Whitfield moved and Hawks seconded that the Board return to regular session at 1:16 p.m.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Whitfield moved and Hawks seconded that the Secretary send a letter inviting LS to next meeting to discuss the possible lack of compliance with the filing requirements of land surveys and compliance with the Minimum Standards for Surveys in Nebraska of a final plat subdivision in Douglas County, Nebraska. Failure to appear at the Board meeting may result in a formal complaint hearing and jeopardize the LS license as a land surveyor in the State of Nebraska.

Voting Aye: Bolte, Hain, Hawks, Whitfield.

Absent: Pro.

Motion carried.

Whitfield moved and Hawks seconded that the Board go into executive session at 1:19 p.m. with Sherlock and Monahan present for the purpose of discussing Violations of Land Surveying in Nebraska and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

Voting Aye: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion carried.

Chair stated that the discussion in executive session would be limited to Violations of Land Surveying in Nebraska .

Hain moved and Hawks seconded that the Board return to regular session at 1:33 p.m.

Voting Aye: Hawks, Whitfield, Bolte, Hain.

Absent: Pro.

Motion carried.

Hain moved and Hawks seconded that the Secretary send a certified/return receipt letter to LS to reply to June 3, 2020 letter by August 30, 2020. Failure to comply to deficiencies which do not meet current Minimum Standards for Surveying in the State of Nebraska and in violations of State Statues may result in disciplinary action.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

The Board's official seal, as noted in State Statute 81-8, 121 and Section 7 of By-Laws, was discussed. In response to a letter notifying all Nebraska Registered Land Surveyors of the issuance of an official seal, and that now a digital seal of the Board's approved design is available upon request. Seventy-five digital seals have been issued by Secretary Sherlock.

Hain moved that the Board go into executive session at 1:40 p.m. with Sherlock and Monahan present for the purpose of discussing Class 1 Applications – Land Surveyor; Class 2 Registration – Reciprocity; Class 3 Applications and Registrations – Surveyor-in-Training; and Reinstatement of Land Surveyor Registration and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

Motion failed for lack of second.

Before formal filing of surveys in the State Records Repository, a newly registered land surveyor is asked to send their first 5 Nebraska surveys to the Nebraska State Surveyor for review. This is a courtesy service to potential unique situations that may arise when surveying in Nebraska.

Whitfield moved and Hain seconded that the Class 1 application of Evan James Nekuda for land surveyor registration be approved and he be permitted to take the Principles and Practice of Surveying (PS) and Nebraska State Specific land surveyor examinations.

Voting Aye:

Voting Nay: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion failed.

Hawks moved and Hain seconded that the Class 1 application of Jeffrey L. Daharsh for land surveyor registration be approved and he be permitted to take the Principles and Practice of Surveying (PS) and Nebraska State Specific land surveyor examinations.

Voting Aye: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion carried.

Whitfield moved and Hawks seconded that the Class 1 application of Brent D. Krumbach for land surveyor registration be approved and he be permitted to take the Principles and Practice of Surveying (PS) and Nebraska State Specific land surveyor examinations.

Voting Aye: Hawks, Whitfield, Bolte, Hain.

Absent: Pro.

Motion carried.

Hawks moved and Hain seconded that inasmuch as Ryan C. Swingley passed the Nebraska reciprocity examination on July 9, 2020 and has completed the requirements for Class 2 Registration in Nebraska, by reciprocity from Indiana, and that upon registration fee in amount of \$100.00, he be granted registration dated July 16, 2020 under Certificate No. 821.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Whitfield moved and Hawks seconded that the Class 3 application of Samuel David Decker for registration by Surveyor-in-Training (SIT) be approved and that inasmuch he has demonstrated a knowledge of surveying fundamentals by passing the NCEES Fundamentals of Surveying (FS) examination on November 25, 2019, and upon receipt of the SIT registration in the amount of \$20.00, Decker be granted SIT registration dated July 16, 2020 under Certificate No. 287.

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

Hawks moved and Hain seconded that inasmuch as Earl T. Beckwith, LS 723, and his PDH hours be approved for registration upon receipt of reinstatement fee of \$220.00. A renewal fee and 30 PDHs earned after reinstatement will be due for the next biennium renewal

Voting Aye: Whitfield, Bolte, Hain, Hawks.

Absent: Pro.

Motion carried.

No items were reported on for the Board’s strategic plan.

The Board discussed the National Council of Examiners for Engineering and Surveying (NCEES) 2020 Annual Meeting Ballot. Webinars for upcoming virtual annual meeting had been conducted for Board members and Member Board Administrator (MBA). NCEES Officer Elections, Central Zone Officer Elections, 2019 Annual Meeting Minutes, Special Committee on Bylaws Motions, Board of Directors Motions, and Committee on Finances Motions were reviewed. Chair Bolte signed the ballot and MBA

Sherlock will submit to NCEES. Results will be announced during the Annual Meeting webinar on August 27.

No response has been received from Governor Ricketts office requesting an Executive Order to relax the requirements of 30 Professional Development Hours down to 20 PDHs for this biennium only. The remainder of the requirements to renew will remain the same for the biennium of January 1, 2019 thru December 31, 2020. Hours will need to be made up in addition to the 30 for the following biennium. Secretary Sherlock was asked to submit another request to the Governor’s office..

Hawks moved and Whitfield seconded that the May and June expense vouchers be approved.

DAS Building Div., February parking .....	15.00
DAS IMServices, April web hosting .....	28.00
DAS Materiel, April postage .....	21.35
Hain, Jerry, May Board Meeting mileage .....	36.80
J P Cooke Co., 3 seals & freight .....	87.75
Office Depot, March office supplies .....	109.34
Whitfield, Denny, May Board Meeting mileage .....	57.50
May Total .....	<u>\$355.74</u>
DAS Building Div., April & May parking .....	30.00
DAS IMServices, May web hosting .....	28.00
DAS Materiel, May postage .....	79.37
J P Cooke Co., 2 seals & freight .....	59.75
Lincoln Journal Star, May Bd. Mtg. notice .....	9.04
June Total .....	<u>\$206.16</u>

Voting Aye: Hain, Hawks, Whitfield, Bolte.

Absent: Pro.

Motion carried.

Secretary Sherlock presented copies of June reports from the Office of State Surveyor, the Nebraska Record Repository, and Board of Examiners for Land Surveyors as presented at a recent Professional Surveyors Association of Nebraska (PSAN) meeting. These reports will appear in “The Nebraska Surveyor”, the PSAN newsletter.

“Communications” will be a future Board agenda item.

Hain was excused from the meeting.

An informal complaint was discussed. As this was an unofficial exhibit, not signed or sealed, or final project, the Board will not consider.

The next meeting is scheduled for September 17, 2020 in Lincoln.

Hawks moved and Whitfield seconded that the meeting be adjourned at 2:20 p.m.

All in favor. Motion carried.

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Casey C. Sherlock, Secretary