

BOARD OF EXAMINERS FOR LAND SURVEYORS

July 11, 2023

The Nebraska Board of Examiners for Land Surveyors (Board) convened at 9:00 a.m. at 555 N. Cotner Blvd., Lower Level, Lincoln, NE with the following members present:

Jerry G. Hain, Chair
Virlyn S. Bolte, Vice-Chair
Mary L. Pro
Dennis L. Whitfield

Casey Sherlock, Ex-Officio Secretary of the Examining Board

Others present:

Jeremy Bender, Papillion, Sarpy County Public Works
John Berry, Lincoln, Lancaster County Surveyor
Karen Brightenburg, Valparaiso, Fineline Land Surveying
Jason Headley, Omaha, E & A Consulting Group
Scott Peters, Grand Island, Hall County Surveyor
Leanne Ritter, West Point, Advanced Consulting Engineering Services
Terry Schulz, Wayne, Advanced Consulting Engineering Services
Michael Sharp, Papillion, Sarpy County Surveyor
Steve Wessel, Lincoln, Nebraska Department of Transportation
Jerry Penry, Deputy State Surveyor
Gerri Monahan, Admin. Asst.

Public notice of this meeting was given by publication in the *Lincoln Journal Star* on June 29, 2023.

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.

All items were voted on in the form of a roll call vote.

Whitfield moved and Bolte seconded to approve the June 21, 2023, Board meeting minutes as presented.

Voting Aye: Hain, Pro, Whitfield, Bolte.

Motion carried.

Pro moved and Whitfield seconded that the June expense vouchers be approved:

DAS IMServices, May web hosting	28.00
DAS Materiel, May postage	35.04
Hain, Jerry, June Board Meeting mileage	42.58
Lincoln Journal Star, May meeting notice	9.04
Office Supplies, April	13.04
Whitfield, Dennis, June Board Meeting mileage	<u>65.50</u>
June Total	\$193.31

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Right of Way (ROW) acquisitions, by local jurisdictions, were discussed with county surveyors and Department of Transportation personnel. The discussions, handouts, and feedback from the county work practices and methods used with registered land surveyors to create descriptions on surveys of tracts for the conveyance of private property for the use and benefit of the public were helpful.

For example, an exhibit does not meet minimum standards and the county board needs more information. A full survey would meet minimum standards and needs to be filed with the State Records Repository (SRR).

More discussion and work will need to be done to standardize acquisitions in all counties across Nebraska to meet minimum standards and filing requirements with the SRR.

Secretary Sherlock highlighted the definition of land surveying found in State Statute 81-8,109, 4 a:

4. Land surveying means the establishment or reestablishment of corners and boundaries and the location of lots, parcels, tracts, or divisions of land, which may include distance, direction, elevation, and acreage, and the correct determination and description of lots, parcels, tracts, or divisions of land for, but not limited to, any of the following purposes:

- a. To furnish a legal description of any tract of land to be used in the preparation of deeds of conveyance when the description is not the same as the one in the deed of conveyance to the current owner or when bearings, distances, or measurements are needed to properly describe the tract being conveyed;

Chair Hain thanked the county surveyor and Department of Transportation officials for their participation in the ROW discussion.

Whitfield moved and Bolte seconded that the Board go into executive session at 10:01 a.m. with Sherlock, Penry, Monahan, and LS to discuss land surveying practices, minimum standards, and LS (land surveyor) performance reviews, and to prevent needless injury to the reputation of a person/s and as such person/s has not requested a public meeting.

The Chair stated that discussion in the executive session would be limited to land surveying practices, minimum standards, and LS performance reviews.

LS was dismissed from the room.

Pro moved and Bolte seconded that the Board returns to regular session at 10:32 a.m.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

The Chair stated that no subject matter other than land surveying practices, minimum standards, and LS performance reviews was discussed in the executive session.

Whitfield moved and Pro seconded that Secretary Sherlock send a letter to the LS asking that corrections to the survey, in question, be made to meet minimum standards and be filed by January 1, 2024.

Voting Aye: Bolte, Hain, Pro, Whitfield.

Motion carried.

A "red-lined" survey copy was provided to the LS. The Board will monitor future survey filings by the LS to see that Minimum Standards are being met.

The agenda was changed to accommodate item 7, Complaint 23-2.

Bolte moved and Pro seconded that the Board go into executive session at 10:46 a.m. with Sherlock, Penry, Monahan, and LS to discuss Complaint 23-2, 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: Hain, Pro, Whitfield, Bolte

Motion carried.

The Chair stated that discussion in the executive session would be limited to Complaint 23-2.

Pro moved and Bolte seconded that the Board returns to regular session at 11:15 a.m.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

The Chair stated that no subject matter other than Complaint 23-2 was discussed in the executive session.

Whitfield moved and Bolte seconded that Secretary Sherlock send a letter requesting LS to provide an update on their plan of action to correct the deficiencies of the plats to meet Minimum Standards for Land Surveys in Nebraska and file the surveys by August 11, 2023.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

LS was dismissed from the room.

The Board returned to agenda item #6: Land Surveying Practices, Minimum Standards, and LS Performance Reviews.

The LS did not request a closed session. The Board discussed the plat of Zegers 1st Addition in Butler County, Nebraska. The survey indicated a multitude of errors and a lack of meeting Minimum Standards for a survey in Nebraska. Errors included the closure of the survey, found corner, bearings, and railroad ROW line. It was noted that the signing surveyors need to review the work. A "red-lined" survey copy was provided to the LS.

LS was dismissed from the room at 11:44 a.m.

Bolte moved and Pro seconded that Secretary Sherlock send LS a letter to correct the survey in question and file a revised survey with the SRR by 1-1-2024.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

The Board returned to agenda item #7, Complaints.

The informal complaint process was discussed. Once a complaint is filed, it is brought to the Board's attention, it can then become dismissed by the Board or a complaint can be filed against the LS. For example, who is doing the surveying work, and who is reviewing and signing the work.

The Nebraska Administrative Code, Title 234, Board of Examiners for Land Surveyors, Chapter 10 – Enforcement:

002. Informal Process

The Examining Board may utilize an informal process as described below in lieu of, or as a prerequisite for, entering into a formal legal process.

002.01. The respondent is entitled to copies of the complaint and all information upon which the probable cause determination was made.

002.06. The matter will be resolved if the Examining Board and the respondent can reach terms of mutual agreement on the issues, and a consent agreement or other such document is executed on those terms. Acceptable terms may include but are not limited to, a requirement for additional professional education, limitations on practice, revision of land surveys, or modification of survey practice.

Bolte moved and Pro seconded that Secretary Sherlock send a letter to LS requesting their presence at the September Board meeting to address surveys, requirements of the Land Surveyors Regulation Act, filing of surveys, use of an unauthorized seal, and Complaint 23-4.

Voting Aye: Bolte, Hain, Pro, Whitfield.

Motion carried.

Secretary Sherlock updated the Board on Complaint 23-2. The Board discussed the review process and additional information needed from the Attorney General's office before proceeding.

The Board took a working lunch from 12:45 to 1:20 p.m.

Pro moved and Bolte seconded that the Board go into executive session at 1:20 p.m. with Sherlock, Penry, and Monahan present to discuss Class 1 Application – Land Surveyor; Class 1 Registrations – Land Surveyor; Class 2 Application – Reciprocity; Class 2 Registrations – Reciprocity; and Class 3 Applications and Certifications – Surveyor-in-Training, 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, Pro, Whitfield, Bolte.

Motion carried.

The Chair stated that discussion in the executive session would be limited to Class 1 Application – Land Surveyor; Class 1 Registrations – Land Surveyor; Class 2 Application – Reciprocity; Class 2 Registrations – Reciprocity; and Class 3 Applications and Certifications – Surveyor-in-Training.

Pro moved and Bolte seconded that the Board returns to regular session at 1:54 p.m.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

The Chair stated that no subject matter other than Class 1 Application – Land Surveyor; Class 1 Registrations – Land Surveyor; Class 2 Application – Reciprocity; Class 2 Registrations – Reciprocity; and Class 3 Applications and Certifications – Surveyor-in Training, was discussed in the executive session.

Whitfield moved and Bolte seconded that the Class 1 application of Jeffrey J. Gute for Nebraska Land Surveyor registration be approved and he be permitted to take the Principles and Practices of Surveying (PS) and Nebraska State-Specific land surveyor examinations.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Bolte moved and Whitfield seconded that since Bryan Adam Brown passed the Principles and Practices of Surveying (PS) examination on April 6, 2023, passed the Nebraska State Specific examination on June 16, 2023, and has completed the requirements for Class 1 registration in Nebraska, and upon receipt of the registration fee in the amount of \$100.00, he be granted registration dated July 11, 2023, under Certificate No. 852.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

Pro moved and Bolte seconded that since Jeffrey Donald Dimon passed the Principles and Practices of Surveying (PS) examination on May 31, 2023, passed the Nebraska State Specific examination on June 27, 2023, and has completed the requirements for Class 1 registration in Nebraska, and upon receipt of the registration fee in the amount of \$100.00, he be granted registration dated July 11, 2023, under Certificate No. 853.

Voting Aye: Bolte, Hain, Pro, Whitfield.

Motion carried.

Whitfield moved and Pro seconded that the Class 2 application of Derek S. Brown for Nebraska land surveyor registration by reciprocity from Colorado be approved and that he be required to appear before the Secretary of the Board for an interview and Nebraska land surveyor examination.

Voting Aye: Hain, Pro, Whitfield, Bolte.

Motion carried.

Bolte moved and Whitfield seconded that since Dustin Ford passed the Nebraska reciprocity examination on June 16, 2023, and has completed the requirements for Class 2 land surveyor registration in Nebraska, by reciprocity from Oklahoma, and that upon receipt of the \$100.00 registration fee, he be granted registration dated July 11, 2023, under Certificate No. 854.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Pro moved and Bolte seconded that since Duffy Denny Haggarty passed the Nebraska reciprocity examination on June 22, 2023, and has completed the requirements for Class 2 land surveyor registration in Nebraska, by reciprocity from Washington, and that upon receipt of the \$100.00 registration fee, he be granted registration dated July 11, 2023, under Certificate No. 855.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Before the 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 Pro seconded that the Class 3 application of Frank C. Elder for registration by Surveyor-in-Training (SIT) be approved and that since he has demonstrated a knowledge of surveying fundamentals by passing the NCEES Fundamentals of Surveying (FS) examination on September 25, 2022, and upon receipt of the SIT registration for \$20.00, Elder be granted SIT registration dated July 11, 2023, under Certificate No. 302.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

Bolte moved and Pro seconded that the Class 3 application of Jared Ryan Yendra for registration by Surveyor-in-Training (SIT) be approved and that since he has demonstrated a knowledge of surveying fundamentals by passing the NCEES Fundamentals of Surveying (FS) examination on May 8, 2023, and upon receipt of the SIT registration for \$20.00, Yendra be granted SIT registration dated July 11, 2023, under Certificate No. 303.

Voting Aye: Bolte, Hain, Pro, Whitfield.

Motion carried.

Board members reviewed annual and fiscal year policies and agreements.

Pro moved and Bolte seconded to approve the updated NBELS Registration – Inactive – Active – Cancel and Reinstatement Policy.

Voting Aye: Hain, Pro, Whitfield, Bolte.

Motion carried.

Pro moved and Bolte seconded to approve that the members and staff of the Nebraska Board of Examiners for Land Surveyors are hereby given blanket approval to travel within the State of Nebraska in the performance of their official duties while attending board meetings or seminars as the official representative of the Examining Board.

This blanket approval is also granted for these members and staff to claim reimbursable travel expenses when necessary.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Written authorization, in the form of a motion in the meeting minutes, is necessary for out-of-state travel for Board members and staff.

Whitfield moved and Pro seconded to approve the amended agreement for the NBELS Office Staff and Rental Space in the State Surveyor's Office in the Board of Educational Lands and Funds Office Building for FY 23-24 and FY 24-25.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Board members reviewed and discussed motions for the upcoming National Council of Examiners for Engineering and Surveying (NCEES) annual meeting in Boston, MA.

The majority of motions were viewed as positive with a couple recommended as nonapproved votes.

Secretary Sherlock reported that he and Penry will attend and speak at the upcoming (Professional Surveyors Association of Nebraska (PSAN) Summer Conference in Harrisburg, NE.

Sherlock also has given ground-penetrating radar demonstrations at survey sites.

Board members signed a certificate of appreciation for James Hawks for his almost 20 years of service to the Nebraska Board of Examiners for Land Surveyors.

Whitfield shared a couple of surveying items for the September meeting agenda.

The next meeting will be held September 21, 2023, at 9:00 a.m. at 555 N. Cotner Blvd, LL Conference Room, Lincoln, NE.

Pro moved and Bolte seconded that the meeting is adjourned at 3:05 p.m.

All in favor. Motion carried.

Casey C. Sherlock
Ex-Officio Secretary of the Examining Board

The mission of the State Board of Examiners for Land Surveyors is to enforce and administer the laws relating to the regulation of land surveying through licensing in Nebraska and to ensure the quality of land surveying in Nebraska for the protection of the public.