

BOARD OF EXAMINERS FOR LAND SURVEYORS

November 8, 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:
Fred Franklin, Omaha
John Howell, Omaha
John Jelkin, Assistant Attorney General, Lincoln
Chad Marsh, Neligh
Nicholas Siedschlag, Omaha
Jerry Penry, Deputy State Surveyor
Gerri Monahan, Admin. Asst.

Public notice of this meeting was given by publication in the *Lincoln Journal Star* on October 27, 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.

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

Voting Aye: Hain, Pro, Whitfield, Bolte.

Motion carried.

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

DAS IMServices, July web hosting & server expenses	331.00
DAS IMServices, August web hosting	133.00
DAS Materiel, August postage (annual reports \$825.00)	857.37
DAS Materiel, 66 th Annual Report printing	858.66
Hain, Jerry, September Board Meeting mileage	42.58
Office Depot, July supplies	51.22
Whitfield, Dennis, September Board Meeting mileage	<u>65.50</u>
September Total	\$2,339.33
Bolte, Virlyn, September Board Meeting mileage	90.39
DAS IMServices, September web hosting	80.50
DAS Materiel, September postage	40.82
General Fund, 2 nd Qtr. Office space rent	582.25
General Fund, 1 st Qtr. Contractual Services	1,858.95
Lincoln Journal Star, September Board Meeting Notice	<u>9.61</u>

September Total \$2,662.52

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

The agenda was adjusted to accommodate land surveyors in attendance.

Assistant Attorney General Jelkin commented that the Board's job is to protect the public.

Whitfield moved and Pro seconded that the Board go into executive session at 9:03 a.m. with Sherlock, Jelkin, Penry, Monahan, and the land surveyor (LS) to discuss land surveying practices, minimum standards for land surveys in Nebraska., and 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.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

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

Bolte moved and Pro seconded that the Board return to regular session at 10:31 a.m.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

The Chair stated that no subject matter other than land surveying practices, minimum standards for land surveys in Nebraska, and LS (land surveyor) performance reviews, were discussed in the executive session.

Bolte moved and Pro seconded that the Board go into executive session at 10:35 a.m. with Sherlock, Jelkin, Penry, Monahan, and LS present to discuss a Class 1 Registrations, and to prevent needless injury to the reputation of a person and as such person has not requested a public meeting.

Voting Aye: Bolte, Hain, Pro, Whitfield.

Motion carried.

The Chair stated that discussion in the executive session would be limited to Class 1 Registrations.

Bolte moved and Pro seconded that the Board return to regular session at 10:53 a.m.

Voting Aye: Hain, Pro, Whitfield, Bolte.

Motion carried.

The Chair stated that no subject matter other than Class 1 Registrations was discussed in the executive session.

Bolte moved and Pro seconded that the Board go into executive session at 10:54 a.m. with Sherlock, Jelkin, Penry, and Monahan present to discuss Complaints, and to prevent needless injury to the reputation of a person, and as such person has not requested a public meeting.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

The Chair stated that discussion in the executive session would be limited to Complaints.

Whitfield moved and Bolte seconded that the Board return to regular session at 12:29 p.m.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

The Chair stated that no subject matter other than Complaints was discussed in the executive session.

Whitfield moved and Bolte seconded that Secretary Sherlock send a certified letter to LS allowing to resolve the matter with a stipulated settlement agreement.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

Pro moved and Bolte seconded that Secretary Sherlock send a letter to LS that Complaint 23-2 is closed, and the Board recommends that LS file an affidavit, as suggested in their letter, with the appropriate county office and the Nebraska State Survey Records Repository for corrections or revisions associated with either plat.

Voting Aye: Bolte, Hain, Pro, Whitfield.

Motion carried.

Bolte moved and Pro seconded that Secretary Sherlock send a letter to the LS that the Board finds that the LS's plan to correct the plats to meet Minimum Standards for Land Surveys in Nebraska is insufficient. Furthermore, Complaint 23-4 will remain open until the surveys are corrected and filed in the State Records Repository within 30 days of the date of this meeting letter. The Board will continue to monitor the situation.

Voting Aye: Hain, Pro, Whitfield, Bolte.

Motion carried.

The Board discussed investigations, investigators, probation, and suspension. The statutes and regulations define and limit the Board's authority. Guidance documents necessitate specific wording. LB 102, currently pending in the Nebraska Legislature, would provide more information about what the Board may execute.

Whitfield moved and Bolte seconded that Secretary Sherlock send a letter to the LS to correct the survey record, as discussed in Saunders County where corners were not set, to meet the Minimum Standards for Land Surveys in Nebraska, and file in the State Records Repository. In addition, the Board directs the LS to reply, within 30 days of the date of this meeting letter, to affirm their plan of action to correct the survey in question.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Pro moved and Bolte seconded that Secretary Sherlock send a letter to the LS requesting their attendance at the January Board meeting to discuss subdivision regulations and the Minimum Standards

for Land Surveys in Nebraska. Failure to appear at the Board meeting may result in formal action by the Board.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Bolte moved and Pro seconded that Secretary Sherlock send a letter to the LS to provide the Board a letter, within 30 days of the date of this meeting letter, an update as to the status of the surveys discussed and suspected fence line construction relating to the corner.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

Whitfield moved and Pro seconded that Secretary Sherlock send a letter to the LS that no further action is requested as to the Cass County survey as discussed.

Voting Aye: Bolte, Hain, Pro, Whitfield.

Motion carried.

Whitfield moved and Bolte seconded that Secretary Sherlock send a letter to LS that no further action is requested as to the Butler County survey revisions as discussed.

Voting Aye: Hain, Pro, Whitfield, Bolte.

Motion carried.

Pro moved and Bolte seconded that Secretary Sherlock send a certified letter to the LS compelling their attendance at the January Board meeting to discuss the issue of the lawful requirement for the filing of surveys in Nebraska. Failure to appear at the Board meeting may result in formal action by the Board.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Jelkin was dismissed at 1:15 p.m.

Bolte moved and Whitfield seconded that the Board go into executive session at 1:19 p.m. with Sherlock, Penry, and Monahan present to discuss Class 1 Application – Land Surveyor; Class 2 Applications – Reciprocity; and Class 2 Registration – Reciprocity, 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: Pro, Whitfield, Bolte, Hain.

Motion carried.

The Chair stated that discussion in the executive session would be limited to Class 1 Application – Land Surveyor; Class 2 Applications – Reciprocity; and Class 2 Registration – Reciprocity,

Pro moved and Bolte seconded that the Board return to regular session at 1:25 p.m.

Voting Aye: Whitfield, Bolte, Hain, Pro.

Motion carried.

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

Pro moved and Bolte seconded that the Class 1 application of Frank C. Elder 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: Bolte, Hain, Pro, Whitfield.

Motion carried.

Bolte moved and Whitfield seconded that since Richard L. Skarin passed the Principles and Practices of Surveying (PS) examination on August 18, 2023, passed the Nebraska State Specific examination on October 20, 2023, and has completed the requirements for Class 1 registration in Nebraska. Upon receipt of the \$100.00 registration fee, he be granted registration dated November 8, 2023, under Certificate No. 856.

Voting Aye: Hain, Pro, Whitfield, Bolte

Motion carried.

Whitfield moved and Bolte seconded that since John Spencer Howell passed the Principles and Practices of Surveying (PS) examination on July 13, 2023, passed the Nebraska State Specific examination on October 30, 2023, and has completed the requirements for Class 1 registration in Nebraska. Upon receipt of the \$100.00 registration fee, he be granted registration dated November 8, 2023, under Certificate No. 857.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

Pro moved and Bolte seconded that the Class 2 application of Randy Zerr for Nebraska land surveyor registration by reciprocity from Kansas 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: Pro, Whitfield, Bolte, Hain.

Motion carried.

Bolte moved and Whitfield seconded that the Class 2 application of Kyle Brady for Nebraska land surveyor registration by reciprocity from Texas 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: Whitfield, Bolte, Hain, Pro.

Motion carried.

Whitfield moved and Pro seconded that since Robert Levine Johnston, Jr. took the Nebraska reciprocity examination on October 17, 2023, and has completed the requirements for Class 2 land surveyor registration in Nebraska, by reciprocity from Arkansas, and that upon receipt of the \$100.00 registration fee, he be granted registration dated November 8, 2023, under Certificate No. 858.

Voting Aye: Bolte, Hain, Pro, Whitfield.

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.

The Board discussed combining the 2-hour Nebraska State Exam and 4-hour Reciprocity Exam into one 4-hour state exam as many of the questions are similar, yet in different formats. The questions are rated. The reciprocity applicant will also receive the "Questions Relative to Surveying in Nebraska" to complete before taking the 4-hour exam.

Bolte moved and Pro seconded that the Board instruct Secretary Sherlock to create a one 4-hour land survey examination for all land surveyor and reciprocity applicants, effective January 1, 2024.

Voting Aye: Pro, Whitfield, Bolte, Hain.

Motion carried.

The Board discussed the Public Land Survey System (PLSS) module to be used in conjunction with the Principles and Practice of Surveying (PS) exam for jurisdictions that require such an exam. This module is being developed by the National Council of Examiners for Engineering and Surveying (NCEES). The module could be ready as early as 2027. This may require a change to the Board's Rules and Regulations.

The Board discussed possible changes to their website.

Secretary Sherlock reported on The Robert Harvey Remembrance held on October 20, 2023, in St. Paul, NE. In 1903, Harvey was appointed as Nebraska's first state surveyor. Board members set their 2024 meeting dates:

January 11,
March 21,
May 16,
July 11,
September 12,
November 14.

The next Board meeting will be held on January 11, 2024, at 9:00 a.m. at 555 N. Cotner Blvd, LL Conference Room, Lincoln, NE.

Pro moved and Bolte seconded that the meeting be adjourned at 2:09 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.