

HOOSIER SURVEYOR

QUARTERLY PUBLICATION OF THE INDIANA SOCIETY OF PROFESSIONAL LAND SURVEYORS, INC.

AFFILIATED WITH THE NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS, INC.

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ISPLS, INC.



RECOGNITION OF THE 2014 ISPLS PRESIDENT

Don West, left, Carmel, the outgoing President of ISPLS, receives the Past President's gavel plaque from the incoming President, Bernie Guerrettaz, Bloomington, at the January 2015 Annual ISPLS Convention held at the Indianapolis Marriott East Hotel in Indianapolis.

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L to R: Don Williams, Crown Point; Jason Coyle, Fishers; Bernie Guerrettaz, Bloomington; Don West, Carmel; Rich Hudson, Valparaiso; Perry Cloyd, Hope; Eric Banschbach, Indianapolis; Dennis Grumpp, New Palestine; Jim Tibbett, Linton; Sean Suttles, Chandler; Brent Friend, Franklin; and Bryan Catlin, Clayton. Not pictured: Todd Bauer, Leo. Photo provided by Henry Aldridge, Photographic Impressions

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HOOSIER SURVEYOR

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EDITOR'S NOTES

Deadlines for copy for various planned issues of the Hoosier Surveyor are as follows:

- Winter - February 1
- Spring - May 1
- Summer - August 1
- Fall - November 1.

The Hoosier Surveyor is published quarterly by the Indiana Society of Professional Land Surveyors to inform land surveyors and related professions, government officials, educational institutions, libraries, contractors, suppliers and associated businesses and industries about land surveying affairs.

Articles and columns appearing in this publication do not necessarily reflect the viewpoints of ISPLS or the Hoosier Surveyor staff, but are published as a service to its members, the general public and for the betterment of the surveying profession. No responsibility is assumed for errors, misquotes or deletions as to its contents.



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PRESIDENT'S MESSAGE: "WE ARE HERE . . . WE ARE HERE"

Bernie Guerrettaz PS, 2015 ISPLS President



Happy March 2015! February dumped cold and snow on most of us in Indiana with a vengeance and then after just a week and a half after winters last vengeful blast, we were approaching 65 degrees Fahrenheit....so goes it in Indiana!

Sincere thanks to the Northeast Chapter for putting together another successful ISPLS Convention in January. With the direction of the ISPLS Board of Directors and especially Jason Coyle, our Executive Director, our attendance increased from last year and many of the program changes we introduced were well received. Of course the guidance and commitment of Doug Herendeen who, as most of us know, is behind every success our conventions offer. Finally I must make note of Don West, 2014 ISPLS President, who navigated our Society through a productive year and Convention. Albeit the likely reason Don possesses the skills and personality to lead so skillfully is due to his upbringing in Knox County, Indiana, it is just as likely that his natural ability to lead is due to his own qualities. Well done Don!

Looking ahead to 2015 we have a few legislative actions that need wrapped up. Of the highest priority in the minds of many is HB 1050 which has to deal with the Statute of Repose for the Professional Land Surveyor. The House version has been approved and soon the Senate is scheduled to hear and vote on the Bill. Alterations in the Bill continue at the Senate level, but we are hopeful and working to navigate it through the process. Further, we continue working on appropriate dialogue and educating interested parties on SB 225 dealing with Underground Utility Facilities. These efforts balance our safety and that of our field crews while working toward a practical application of the rule including timely responses to our location requests.

In addition to the various Indiana State House and Senate Bills currently underway our licensure criteria in Indiana is under review. This has to do more specifically with our requirements for education and experience prior to being permitted to sit for the Professional Surveying Licensing Examinations, (HB 1303). Essentially the ISPLS Board is asking all of you to take an opportunity to speak with Indiana State Legislators you may know and instill in them the necessity of both attributes of our professional licensure to the profession and the professional service to the public. A successful effort has been made to engage the Indiana Land Title Association and the National Society of Professional Land Surveyors into this dialogue as well as our very own ISPLS Past Presidents Council.

Regrettably I must inform you that we have lost our Executive Director, Mr. Jason Coyle, P.S. to the lure of professional practice. Jason has accepted a position with one of our Firm Members, Banning Engineering, and has given notice to the ISPLS Board of Directors that his last day with us will be April 30, 2015. While we readily realize Jason will not be far from "us", as his passion for the Society and Membership is equaled by his passion for the Profession of Land Surveying, not having him available on a daily basis managing the activities of ISPLS will leave a substantial void to be filled.

Therefore I invite you to help us with our search for Jason's replacement. The individual we seek will be skilled in managing administrative office duties as well as having abilities in interpersonal communication. The successful candidate will offer support to the Membership, offer support to the ISPLS Chapters, offer support to the Board of Directors, and be able to funnel through proper channels communications based on the wide variety of interests our Society endeavors. The successful applicant will demonstrate the ability to work somewhat independently and be able to prioritize tasks based on timing and subject matter, among other things. An individual with an understanding of Land Surveying as a profession and Land Surveyors in general will be sought after and will be received well by the ISPLS Board of Directors as an applicant. Creativity and ideas from the Membership in filling the position will also be well received so please share your ideas with us. You can contact Bernie Guerrettaz, President at 812-606-1888 or btongtaz@yahoo.com or Rich Hudson, President-Elect at rickandcal@comcast.net. Rich and I are working together to gather and disseminate the information to the Board of Directors and the selection committee.

Lastly, I want to thank you for this opportunity to work with you to our common goal of a successful Professional Society. The membership opportunities in ISPLS are not always evident with tangible things, (such as the Annual Convention, supporting the local Chapters, and various publications such as the Hoosier Surveyor and email updates), we can put our hands on. However, a great deal of work is invested in our involvement as a group in matters such as Legislative initiatives and professional development. Additionally the ISPLS Board of Directors is the prominent stake holder in the Foundation so we dedicate a lot of time and effort

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assisting that Board as well. Please share your ideas on how the Foundation can invest in our profession by submitting Grant Applications outlining your ideas.

I will conclude with one final request. Please remember that when we speak of our profession with the public and other professionals with on connected and informed voice, the message is stronger. Many of us know the story by Dr. Suess, **"Horton Hears a Who"**. Let's join our voices so we are understood as strong and unified collection of professionals with similar goals. Let's not wait for that one faint voice rallied at the last minute or we run the risk of not being heard or understood at all. Let's not wait for our own **"Jo-Jo"** from **"Who-ville"** to yelp out a message in desperation. Rather, let's work to be in front of our message and deliver it in a manner that proves we can resolve differences and move forward with unity and clear goals. I encourage you to reach out to one another and to become involved, become members in this professional society and reap the rewards that happen behind the scenes. Know that your involvement as a member adds to the strength of our profession and its longevity. Let's remember our strength is not only based in the necessary services we provide to the public but as importantly in our ability to communicate those with force based on our convictions, confidence and in the number of Members we have.

My best to you all for a successful 2015!

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ISPLS BOARD OF DIRECTORS MEETING HIGHLIGHTS

By Robert “Jason” Coyle, PS, Executive Director

December 6, 2014

The ISPLS Board of Directors met on Saturday, December 6, 2014 at ISPLS Headquarters, Indianapolis, Indiana. President Don West called the meeting to order at 9:00 am EST. All board members were in attendance with the exception of Don Williams. Others in attendance were Jason Coyle, Executive Director of ISPLS; and Doug Herendeen, ISPLS Convention Coordinator.

President West reviewed the ISPLS Mission and Vision Statement and noted the “Rules of Order” for the meeting. A motion was made by Ron Wharry and seconded by Todd Bauer to accept the agenda as adjusted. The motion passed by a voice vote.

The minutes from the October 25, 2014 meeting were reviewed and accepted. A motion was made by Perry Cloyd and seconded by Bernie Guerrettaz to accept the Board of Directors’ meeting minutes as amended. The motion passed by a voice vote.

The Treasurer’s Reports were reviewed and narrated by Dennis Grumpp. Financial reports ending October 31, 2014 were presented for board review. Assets totaled \$278,947.92 as of October 31, 2014. Dennis also covered the income and expense report, investment report, budget, and the profit and loss report. There was board discussion regarding the profit and loss report regarding membership renewals. A motion to accept the Financial Reports was made by Ron Wharry and seconded by Todd Bauer. The motion passed by a voice vote.

The Board heard and reviewed the Executive Director’s report. Executive Director Coyle presented a written report and discussed highlights with the board. There was Board discussion on several items. The following information was also discussed as a part of his report: It was noted that the Internal Revenue Service had approved the “Group Exemption Letter” for the Chapters. The Chapters must file a 990-N e-postcard with the IRS for year 2013/2014. There was Board discussion concerning proposed amendments to Indiana’s Dig Law. Executive Director Coyle noted that the next edition of the Hoosier Surveyor should be out this coming week. There was BOD discussion regarding the “JCC – Job Creation Committee” meeting that is to be held Thursday, January 15, 2015. Todd Bauer and Jason Coyle will make the presentation at this meeting.

There was approval by the Board Members via e-mail concerning the slate of candidates for the Board of Directors election.

Doug Herendeen gave a report concerning the 2015 Annual Convention. Doug presented the final convention details.

ISPLS Committee reports: Executive Director Coyle reported on behalf of the Publications and Media Committee that the next edition of the Hoosier Surveyor will be issued within the next week and a half. A motion was made by Ron Wharry and seconded by Dennis Grumpp to accept the committee recommendation for an Affiliate Membership for Christopher Lester. The motion passed by a voice vote. Executive Director Coyle reported that the 2014-2015 Trig-Star Exam is available and encouraged members to begin to contact schools.

Jason Coyle, the Board of Registration Liaison, reported that the next on the Board of Registration for Professional Surveyors meeting will take place on January 30, 2015. Tony Gregory, Indiana’s NSPS Director/Governor, joined the meeting via telephone at 10:04 am and narrated a written report he had provided concerning the NSPS Fall Meetings. Tony Gregory stated NSPS is in “good shape” with the change to “100%” membership with over 16,000 members. The NSPS Governors/Directors meetings were reviewed. The Great Lakes Council presented four motions to NSPS. The relationship with NCEES was reviewed. Gregory reported that NSPS finances are in the “black”. The Certified Surveying Technicians (CST) program is growing with membership in NSPS. There was Board discussion on the NSPS motion regarding the “education” requirement for licensure.

Eric Banschbach gave a report for the Geodetic Control Workgroup. Eric reported that the Height Modernization project is moving along. Committee received an update from the consultants on the “Indiana Geo-Spatial Coordinate System”. Executive Director Coyle gave a legislative update concerning the statute of repose legislation, the Indiana-Michigan State Line Commission and potential changes to the dig law during his Executive Director’s report.

Executive Director Coyle reported that Education Committee had submitted a year-end report. It was also noted that Brad Cramer, Education Committee Chair, asked for the Board to be replaced as committee chairman. President Guerrettaz said he would look into that.

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Rich Hudson noted that the By-Laws Committee has not yet begun work on the definition of "In Good Standing." The Board did take a few minutes to discuss convention seminar etiquette. Dennis Grumpp, Chair of the Finance and Planning Committee, noted that the committee would meet after the convention to discuss the budget. Frank Walsko, Chair of the Young Professionals Committee, submitted a written report.

Chuck Coyle, IPLS Foundation Liaison, gave a verbal report. The Foundation met on November 17, 2014 at ISPLS Headquarters. There was discussion regarding the establishing a Memorandum of Understanding with the Chapters with the ability to have the Chapters place investments with the Foundation's investments. There will be a IPLSF Logo Design Competition at the convention. There are also two director positions up for election/replacement.

Those directors and members in attendance gave verbal reports concern their chapters.

Don West had sent the ISPLS – Vincennes University Advisory Committee report to Bill Clark. Jason Coyle and Rich Hudson gave an update concerning the Indiana-Michigan State Line Commission. There was Board discussion. Rich Hudson will attend the Commission meetings as his schedule allows on behalf of the ISPLS Board.

Next ISPLS Board meeting will be January 14, 2015 at 8:00 am EST at the Indianapolis Marriott East. The meeting adjourned at 1:00 pm EST.

January 14, 2015

The ISPLS Board of Directors met on Wednesday, January 14, 2015 at the Indianapolis Marriott East during the 63rd Annual ISPLS Convention. President Don West called the meeting to order at 7:48 am EST. All board members were in attendance. Others in attendance were Jason Coyle, Executive Director of ISPLS; Doug Herendeen, ISPLS Convention Coordinator; Dan Kovert, IPLSF Director; Jacob Hoffman, Central Indiana Chapter President; Brent Friend; Frank Walsko, Northwest Chapter President; and Gary Kent.

President West briefly reviewed the ISPLS Mission and Vision Statement and noted the "Rules of Order" for the meeting. Printed copies of the agenda were provided. A motion was made by Ron Wharry and seconded by Don Williams to accept the agenda as adjusted. The motion passed by a voice vote. The minutes from the December 6, 2014 meetings were reviewed. A motion was made by Bryan Catlin and seconded by Perry Cloyd to accept the Board of Director's meeting minutes as presented and amended. The motion passed by a voice vote.

The Treasurer's Reports were reviewed and narrated by Dennis Grumpp. As of December 31, 2013, ISPLS assets totaled \$389,912.83. Dennis also covered the income and expense report, investment report, budget, and the profit and loss report. A motion was made by Ron Wharry and seconded by Perry Cloyd to accept the Treasurer's Reports as submitted. The motion passed by a voice vote.

Jeff Dowden with Wallington Asset Management joined the meeting presented a bound report for both the ISPLS and IPLSF for year ending December 31, 2014. There was Board discussion and comments. A motion was made by Chuck Coyle and seconded by Dennis Grumpp keep the ISPLS portfolio distribution between stocks and bonds at 50/50 with latitude. The motion carried by a voice vote.

Todd Ensign with Ensign CPA Group joined the meeting and reviewed a "Consolidated Financial Statements with Independent Accountant's Review Report" and a "Financial Report - Year Ending June 30, 2014" for ISPLS and IPLSF. There was Board discussion and comments.

Executive Director Coyle verbally gave the Board his Executive Director's report. The report discussed the following topics: Legislative items; 2015 Convention; and the Job Creation Committee meeting.

There was one item of business that was conducted via e-mail. The results of the Board of Director's election were published via e-mail. The Board approved results as presented.

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ISPLS Committee reports: The majority of the ISPLS Committees provided year-end reports for the convention program. Frank Walsko, Young Professionals Committee Chair, gave a verbal report concerning the committee in addition to his written report.

Chuck Coyle, IPLS Foundation Liaison, gave a verbal report. The Foundation met on December 17, 2014 at ISPLS Headquarters. There was discussion regarding the establishing a Memorandum of Understanding with the Chapters with the ability to have the Chapters place investments with the Foundation's investments. There will be an IPLSF Logo Design Competition at the convention.

Those directors and members in attendance gave verbal reports concern their chapters. All ten of the ISPLS Chapters provided written reports for the convention program.

The Board briefly discussed the following items under new business: Sullivan County Survey Records Destruction – there was Board discussion. David Myers, PS, had information regarding the destruction of survey records that were being stored in an off-site warehouse. The Board will seek support from the County Surveyors Association. There will be more discussion at the General Membership meeting on Thursday.

Announcements: It was noted that the Re-organizational Meeting would commence immediately after adjournment of this meeting.

The meeting adjourned at 11:19 am EST.

January 14, 2015 (RE-ORGANIZATIONAL MEETING)

The ISPLS Board of Directors met on Wednesday, January 14, 2015 at the Indianapolis Marriott East during the 63rd Annual ISPLS Convention. President Bernie Guerrettaz called the meeting to order at 11:19 am EST. All board members were in attendance. Others in attendance were Jason Coyle, Executive Director of ISPLS; Frank Walsko; and Tony Gregory, Indiana's NSPS Director/Governor.

New Business: There needs to be an appointment to the Board to fill the unexpired term of Rich Hudson, President-Elect. A motion was made by Todd Bauer and seconded by Perry Cloyd to appoint Jim Tibbett to fill the unexpired term. The motion passed by a voice vote.

President Guerrettaz announced the slate of Executive Officers for the coming year:

- President – Bernie Guerrettaz
- Past President – Don West
- President Elect – Rich Hudson
- Vice President – Perry Cloyd
- Secretary – Bryan Catlin
- Treasurer – Dennis Grumpp

A motion was made by Don West and seconded by Rich Hudson to accept the slate as presented. The motion passed by a voice vote.

IPLSF Board of Directors: A motion was made by Perry Cloyd and seconded by Todd Bauer to appoint Eric Banschbach and Dan Kovert each to a 3-year term to the IPLS Foundation Board of Directors. The motion passed by a voice vote.

Next ISPLS Board meeting will be March 14, 2015 at 9:00 am EST at the ISPLS Office.

The re-organization meeting was adjourned by President West at 11:57 am EST.

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BOARD OF REGISTRATION FOR LAND SURVEYORS

MEETING HIGHLIGHTS - JANUARY 30, 2015

By Robert "Jason" Coyle, PS, Executive Director

The Board of Registration for Professional Surveyors (Board) met Friday, January 30, 2015, at 8:30 am EST. The meeting was held at Indiana Government Center South, 402 W. Washington Street, Room W064, Indianapolis, Indiana. A motion was made by Mike DeBoy and seconded by Gary Kent to adopt the amended agenda. The motion passed with a voice vote. A motion was made by Gary Kent and seconded by John Stephens to adopt the minutes from the July 25, 2014 meeting. The motion passed with a voice vote. Additionally, a motion was made by Rich Hudson and seconded by Doug Lechner to adopt the minutes from the October 3, 2014 meeting. The motion passed with a voice vote.

The Board heard a report from Natalie Stidd, Deputy Attorney General. Ms. Stidd noted that her department had been reorganized, but she is still working with the Board of Registration for Professional Surveyors. She noted that there will be an additional attorney and a new analyst working with the Board.

Natalie Stidd supplied the Board with a report of Consumer Complaints and Litigation Cases. The oldest complaints are tied up with subsequent complaints against the same person(s). Ross Holloway asked about the complaints from 2014. Ms. Stidd stated that they are usually 60% consumer complaints and the remaining 40% being from the Professional Licensing Agency. Below is a summation of that report:

Consumer Complaints			
Year	Consumer Complaints at Beginning of Year	Consumer Complaints Opened During Year	Consumer Complaints Closed During Year
2011	33	4	15
2012	22	13	25
2013	10	16	16
2014	10	21	6
2015	25	0	0
Complaints Currently Open as of January 29, 2015			25
Average Age of Open Complaints: 7.3 months			
Date of Oldest Open Complaints: July 23, 2013			

Litigation Cases			
Year	Litigation Cases Open at Beginning of Year	Litigation Files Opened During Year	Litigation Files Closed During Year
2011	8	5	3
2012	10	2	4
2013	8	1	4
2014	5	1	4
2015	2	1	0
Cases Currently Open as of January 29, 2015			3
Average Age of Open Cases: 9.21 months			

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Action Taken	2011	2012	2013	2014	2015
Admin Complaints Filed	0	5	1	2	0
Cease & Desist Orders Filed	0	1	0	0	0
Summary Suspensions Filed	0	0	0	0	0
Civil Litigation	0	0	0	0	0
Judicial Review	0	1	0	0	0

The Board continued with Probationary Reports for J. Bernard Feeney, Michael Sadlon, Ronald Morrison, and Steven Williams. There was substantially nothing to report concerning these individuals since they had not prepared any surveys. Mr. Williams had prepared one survey since he had last met with the Board. The Board quickly reviewed the survey. Gary Kent asked Mr. Williams a question regarding a deed dimension. The Board notes that the survey was a distinct improvement over previously reviewed surveys. Ross Holloway asked Mr. Williams about his relationship with mentor John Silnes. Mr. Williams stated that the relationship was acceptable.

The Board discussed the applications that were reviewed and reported as to whether they were approved or denied. The following applications were approved:

1. John G. Brinkworth – Professional Surveyor by Comity
2. Robert E. Matko – Professional Surveyor by Comity
3. Trevor A. McMann – Professional Surveyor by Comity
4. Dale V. Weaver – Professional Surveyor by Comity
5. Erik C. Bennett – Professional Surveyor
6. Jessica M. Hess – Professional Surveyor
7. Christopher L. Lester – Professional Surveyor
8. Patrick H. Nejman – Professional Surveyor
9. Jonathan D. Polson – Professional Surveyor and Surveyor Intern
10. Eric L. Rothgerber – Professional Surveyor
11. James N. Wonnell – Professional Surveyor
12. Christopher M. Buergelein – Surveyor Intern

The Board discussed the continuing education application from Donald R. Williams with DLZ. The Board approved 3 of the 8 hours submitted. The five (5) hours that were rejected was due to fact that they dealt directly with DLZ marketing.

The Administrative Hearing concerning Brett R. Miller, LS20300059, regarding an Administrative Complaint, Cause No. SBRLS 14-08, was continued to the April 17, 2015 meeting. Likewise, the Administrative Hearing concerning Jerry D. Wiggins, LS8088002, regarding an Administrative Complaint, Cause No. SBRLS 14-09, was continued at the request of Jerry D. Wiggins to the April 17, 2015 meeting. Mr. Jerry Wiggins requested for his attorney to be present. The request of continuance was granted based upon a motion by Rich Hudson and second by John Stephens. The motion passed with a voice vote.

The Board then turned their attention to the discussion items on the agenda. The Board noted that the “Rule Review” had been submitted to Nick Rhoad, Executive Director for the Professional Licensing Agency (PLA). The Application Reference Form Revisal is currently being reviewed by the staff of the PLA. A continuing education audit was conducted on 1.1% or nine (9) of the total 838 active licensed professional surveyors. Of the 9 audited, 7 have replied and were found adequate. A second notice was out to the 2 that failed to respond. Amy Hall noted that the PLA would increase the audit by an additional 1% for a total of 2% or 16 active licensed professional surveyors. Both Gary Kent and Amy Hall gave a report concerning the Job Creation Committee from the January 15, 2015 meeting. Gary Kent led a discussions related to submitting courses for approval. A motion was made by Rich Hudson and seconded by Mike DeBoy to send Doug Lechner to Hershey, Pennsylvania for a NCEES meeting.

The next scheduled meeting is Friday, April 17, 2015 at Indiana Government Center South, 402 W. Washington Street, Room W064, Indianapolis, Indiana 46204.

INDIANA PROFESSIONAL LAND SURVEYORS FOUNDATION, INC.

Report to the ISPLS Membership - March 24, 2015

The following is a recap of the activities by the IPLS Foundation since the 2015 ISPLS Convention:

The Foundation BOD has met on two occasions since the ISPLS Convention in January; February 9th, and March 9th, and there are several newsworthy items that the Board has taken up:



- 1) **Scholarships:** The Foundation BOD heard the voices of our membership regarding the importance of scholarships to be used as a priority recruiting tool for reaching young men and women for the profession of Surveying. It was mentioned that the Foundation had only awarded 2-scholarships to two Purdue-Calumet students, and thought more should have been given.

At our last meeting a decision was made to offer an "Open" Scholarship to any student that is enrolled or intending to enroll in an approved surveying program. This would be open to high schools students or existing surveying students that will be enrolled for classes in the fall of 2016. The recipient must be an Indiana resident, but not necessarily attending an Indiana school. The amount has not yet been determined, but should be of an ample amount to be considered a scholarship well worth applying for. All the details will be forthcoming soon!

Applications for the Peggy Archer Award (Vincennes), the John G. McEntyre Award (Purdue), as well as the P.U.-Calumet Scholarships are currently being received. We understand that there are approximately 50-surveying students statewide that can apply for these scholarships. Please encourage any students that you know to take advantage of these opportunities. It is also through this application process that local chapters have the opportunities to review the applicants from their chapter areas for consideration of their Chapter Scholarship Awards.

- 2) **Surveying Programs:** The Foundation BOD also discussed the need to review the program offerings and contact information for the schools and universities that ISPLS has listed on its webpage, and any consideration of adding programs that would seem to serve the interest of potential Indiana students.
- 3) **Outreach to high school students:** Related to good surveying programs and scholarship award offerings is a real need that we have for reaching out to local high school students. The Trig Star program is one way that we can reach young people, but we need additional opportunities to make our profession better known. The Foundation will be working to advance a program that can be used in the local chapter areas. It will require the applied efforts of all of us to have any success. If you have ideas in this regard please pass them along to a Foundation Board member.
- 4) **Financial Partnering and Fund Raising Ideas:** The Foundation Board is constantly seeking ways to make the services of the surveyor better known to the general public, and if there are ways to do so and bring some financial gain to the Foundation that's even better. Please "stand by" as we continue to solicit such opportunities.
- 5) **Financial Grants:** It is also the time of year that the Foundation is soliciting for Grant Applications. We have heard rumors that we could expect to receive some applications this spring. Grant applications can be obtained on the ISPLS Website under the Foundation tab.
- 6) **The IPLSF Raffle:** This years Raffle was once again a success... but not quite as profitable for the Foundation as in the past two years. We changed up the way you could submit your chances for the prizes this year, and even tried to change up the prizes a bit, by offering a "Bed and Breakfast" package thinking that might inspire members and friends to purchase more chances, but that didn't appear to happen. (?) So we solicited an on-line questionnaire to try to help us determine the "why's and what-fore's" only to find no real "eye-opening" answers. The Foundation is already considering prizes for next year... so if you have some special ideas please pass them along to a Foundation Board member.
- 7) **IPLSF / Chapter MOU's:** The Foundation now has the Foundation/Chapter MOU agreement in a form that we are able to present this program to the Chapter's for their consideration. The basic benefit to the chapter is that it can take advantage of the greater earning power potential of investing their chapter assets with the same investment firm that IPLSF and ISPLS are currently using. We currently have at least one chapter that has indicated a strong interest in pursuing this offering. If your chapter would like to have a MOU presentation made just let an IPLSF Board member know.

(Continued on page 15)

(Continued from page 14)

Remember... This is your Foundation... Our task is serving the ISPLS Membership. Let us know what we can do to provide even more!

The next Foundation meeting will be held on Monday evening, April 13th, at the ISPLS office.

Respectfully submitted,

Charles M "Chuck" Coyle, 2015 Vice President

CENTRAL INDIANA CHAPTER GETS INSIGHTS ON CERTIFIED FLOODPLAIN MANAGER PROGRAM

By Mike Davis

Anita Nance, a water planner in the Indiana Department of Natural Resources' Floodplain Management Section, discussed the Certified Floodplain Manager Program at the March 19 meeting of the ISPLS Central Indiana Chapter.

Thirteen members attended the chapter meeting at the offices of Banning Engineering, 853 Columbia Road, Suite 100, Plainfield.

Nance, who also is a Certified Floodplain Manager, gave a background of the program, told how the certification examination is structured, listed most common study materials, and outlined costs of membership, the examination and biennial renewal fees. She said there are 107 CFMs listed in Indiana, and the most recent certification exam was March 10. The state's first Professional Surveyor certified was Rod Renkenberger in 2000. He is the executive director of the Maumee River Basin Commission in Fort Wayne.

Nance said reasons for surveyors to become CFMs include lending credibility by showing specific knowledge of floodplain issues, increasing basic knowledge by preparing for the examination, reducing liability through a better understanding of the National Flood Insurance Program and floodplain management, and potentially seeing an increase in pay.

The next certification exam will be in September at Pokagon State Park, near Angola, in conjunction with the annual conference of the Indiana Association for Floodplain and Stormwater Management (INAFSM). More information on the conference is available online at www.inafsm.net/2015-conference or by contacting INAFSM Executive Director Karen Avery at kavery@inafsm.net. Nance may be contacted at anance@dnr.in.gov. A copy of Nance's PowerPoint presentation may be obtained by contacting Jason Coyle at ExecDir@ispls.org.

The chapter's business meeting included a report on members' participation in February's WFMS Riley Radiothon, a request for volunteers for a May 16 surveying presentation during a Webelos Activity Badge Day at Camp Belzer in Lawrence, and the need to find a replacement for Trig-Star coordinator Eric Banschbach, PS.

Jason Coyle, PS, gave reports on current legislative issues and a meeting with the Governor's Job Creation Committee to explain why surveyors should be licensed. Ed Sweetland, PS, reported that the ISPLS was seeking to raise money for its political action committee's efforts to familiarize legislators with the ISPLS. Members voted to donate \$1,000 to the PAC fund. Coyle also said he would be stepping down as ISPLS executive director to take a job at a surveying firm in central Indiana.

The chapter's preliminary schedule for upcoming meetings and activities includes:

- May 21 chapter meeting with presentation by Luke Jahn, PS, on the use of GIS in the field
- July trap and skeet shooting at the Indiana Gun Club, Fortville
- August meeting with presentation by Bloodhound Underground
- Oct. 8 possible continuing education seminar during the morning before an afternoon golf outing at Dye's Walk Country Club, Greenwood
- Nov. 12 meeting and election of officers.

Officers for 2015 are Mike Davis, president; Robert "Jason" Coyle, vice president; Brian Haggard, secretary; Mark Schepers, treasurer; and directors Bryan Catlin, Jacob Hoffman and Luke Jahn.

ISPLS 63rd ANNUAL CONVENTION HIGHLIGHTS

Indianapolis Marriott East, Indianapolis, Indiana, January 14-16, 2015

The Northwest Chapter of ISPLS, the Board of Directors for ISPLS, and the Board of Directors for the IPLS Foundation would like to thank to our attendees, guests, presenters, and exhibitors for another successful convention! We would also like to thank the Indianapolis Marriott East and the hotel staff for their hospitality during our stay. This year's convention marked the 63rd Annual ISPLS Convention and gave us an opportunity to celebrate 60 years as an organized land surveying society.

The three day convention kicked off Wednesday afternoon, January 14, with seminars presented by Gary Kent and Michael Pallamary. This was Michael Pallamary's first appearance at an ISPLS Convention and will most likely not his last based upon the favorable remarks given by attendees. The IPLS Foundation continued their fundraising effort with the 3rd Annual Fundraising Raffle. The prizes for the raffle included a shotgun, and bed and breakfast gift card package, an Apple iPad Mini, and a GoPro Camera. After the Wednesday afternoon seminars, an Exhibitor's Reception was held in the Exhibit Hall where attendees got to see the latest and greatest in hardware, software and related products. Several fabulous door prizes were awarded and we thank our vendors and exhibitors for their continued support. The conference continued with the Purdue University and Vincennes University Alumni Parties. Alternatively, attendees had the option of boarding charter buses to Indiana Grand Racing and Casino for an evening of entertainment.

Educational opportunities continued on Thursday with presentations given by Milt Denny, Kris Kline, Larry Phipps, and Michael Pallamary to name a few. We also offered an outstanding technician program that includes presentations from Steve Jones, Keri Brennan, and Ron Koons. The Annual Membership Meeting was held Thursday afternoon where the membership heard a year-end report from Don West, the 2014 ISPLS President. Eric Banschbach, 2014 IPLS Foundation President, also gave a verbal report concerning the Foundation. We were honored to have the following guests with us: Curt Sumner, NSPS Executive Director; Doug Kramer, PLSO Representative; and Chris Lester, MSPS Representative. Each of our guests gave a report pertaining to their organizations.



Curt Sumner, NSPS Executive Director, presiding over the installation of offices.

Our banquet included the installation of the 2015 ISPLS Officers, recognition of scholarship recipients, and awarding of the Atlas Award and President's Awards. A special thank you to Curt Sumner, NSPS Executive Director, for presiding over the installation of officers and his address to those in attendance. Congratulations to Rich Hudson for receiving the Atlas Award, and to Eric Banschbach, Bryan Catlin and Chuck Coyle for being awarded the President's Award.

On Friday, educational opportunities included presentations from Milt Denny, Kris Kline, Larry Phipps, and Michael Pallamary. The technician program continued with presentations from John Ellingson and Bruce Carlson. We want to thank NOAA's National Geodetic Survey and Carlson Software for providing both of these technician's programs. At lunch, we welcomed Michael Pallamary to share a few excerpts from *The Curt Brown Chronicles: The Writings and Lectures of Curtis M. Brown*, Professional Land Surveyor. The officers of the Indiana Professional Land Surveyors Foundation (IPLSF) concluded lunch by drawing the winning tickets for the Foundation's third annual fundraising raffle. Congratulations to all the winners and many thanks to all who participated.



Michael O'Brien, ISPLS Lobbyist with Barnes & Thornburg, joined us for the ISPLS Business Meeting and Banquet.

Thank you all again for another great convention!
We look forward to seeing you again next year.

Many thanks to our Exhibitors and Students for their participation!

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ISPLS 63rd ANNUAL CONVENTION HIGHLIGHTS

Many thanks to our presenters for another successful convention.



Milt Denny, PS



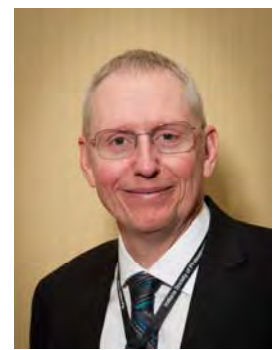
Gary Kent, PS



Kris Kline, PS



Michael Pallamary, PS



Larry Phipps, PS



Keri Brennan, GISP



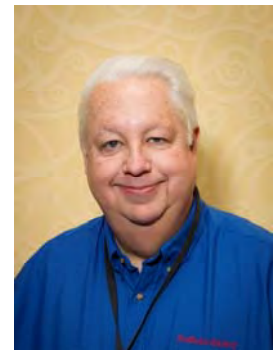
Bruce Carlson, PE, PS



John Ellingson, PE, PS



Steve Jones, PS



Ron Koons

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ISPLS 63rd ANNUAL CONVENTION HIGHLIGHTS

Indianapolis Marriott East, Indianapolis, Indiana, January 14 - 16, 2015

Hosted by the Northwest Chapter of ISPLS



Rich Hudson (R) receives the Atlas Award from ISPLS President Don West.



Eric Banschbach (R) receives a President's Award from ISPLS President Don West.



Bryan Catlin (R) receives a President's Award from ISPLS President Don West.



Chuck Coyle (L) receives a President's Award from ISPLS President Don West.

Henry Aldridge, PS and his camera are familiar sights at ISPLS conventions — and his photos have been on display in post-convention copies of the Hoosier Surveyor magazine like this one. He's been recording photographic highlights of the annual gatherings since 1989.

Aldridge, an Indiana Department of Transportation employee since 1995, has recently expanded his individual artistic talents to produce what he describes as surrealistic images. A print of one of them, "Ghost of Surveyors Past," is displayed at the ISPLS office.

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ISPLS 63rd ANNUAL CONVENTION HIGHLIGHTS

ISPLS 2014 SCHOLARSHIP RECIPIENTS

Those recipients recognized at the annual banquet, but not in attendance, are as follows:

Michael Flower, Ferris State University, a Central Indiana Chapter Scholarship;

Brian Murray, Purdue University Calumet, the Ordell L. Gertsmeier Memorial Scholarship through the Northwest Chapter; and Kevin Coros, Purdue University Calumet, the Ordell L. Gertsmeier Memorial Scholarship through the Northwest Chapter.



Don West, 2014 ISPLS President, awarding the 2014 John G. McEntyre Scholarship to Easton French, Purdue University student.



Don West, 2014 ISPLS President, awarding the 2014 Peggy Archer Scholarship to Clinton White, Vincennes University student.



Mike Davis, 2015 Central Indiana Chapter President, awarding a scholarship to Dirk Foltz, Vincennes University student.



Mike Davis, 2015 Central Indiana Chapter President, awarding a scholarship to Clinton White, Vincennes University student.



Mike Davis, 2015 Central Indiana Chapter President, awarding a scholarship to William Neumeier, Vincennes University student.



Mike Davis, 2015 Central Indiana Chapter President, awarding a scholarship to Rebecca Hinkle, Purdue University student.



Mike Davis, 2015 Central Indiana Chapter President, awarding a scholarship to Easton French, Purdue University student.

ISPLS 63rd ANNUAL CONVENTION HIGHLIGHTS

ISPLS 2014 SCHOLARSHIP RECIPIENTS



Matt Badger, 2015 Southwest Chapter President, awarding a scholarship to Jacob Kissel, Vincennes University student.



Matt Badger, 2015 Southwest Chapter President, awarding a scholarship to Spencer Wright, Vincennes University student.

The background of the Aerocon advertisement is a topographic map with contour lines. The Aerocon logo is prominently displayed in the center, featuring the word "AEROCON" in a stylized, metallic font with a crosshair symbol over the 'O'. To the right of the logo is a blue square icon containing a white grid and a red line. Below the logo, the text "Aerocon Photogrammetric Services Inc" and "Since 1967" are visible. A list of services is on the left, and contact information for Jason D Heywood-CP is on the right.

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ISPLS 63rd ANNUAL CONVENTION HIGHLIGHTS

IPLS FOUNDATION, INC. • 3RD ANNUAL FUNDRAISING RAFFLE

The **Indiana Professional Land Surveyors Foundation, Inc.** (IPLSF) conducted its 3rd Annual Fundraising Raffle during the 2015 ISPLS Annual Convention held January 14-16, 2015 at the Indianapolis Marriott East. The funds raised will assist the IPLSF with its mission of promoting growth and development of the Surveying Profession in the State of Indiana by providing financial grants, scholarships, or other financial assistance. The IPLSF was again pleasantly surprised with the participation. The ISPLF would like to thank everyone that participated.

Indiana Gaming Commission License Number 136109.

The raffle included eight remarkable prizes with a combined total value of over \$3,000. The **First Prize** was Franchi Instinct SL 12 Gauge Over/Under Shotgun. The Second Prize was a BedandBreakfast.com and Visa Gift Cards valued at \$575.00. The Third Prize was a 64GB Apple iPad Mini3. The Fourth Prize was a GoPro HERO3 Camera. Additionally, there were four “last chance” gift cards awarded.

And the Winners were . . .



Robert Staton, the first prize winner, receiving the Franchi Instinct SL Over/Under Shotgun from IPLSF Director Chuck Coyle.



Randall Peterson, the second prize winner, receiving the BedandBreakfast.com Gift Cards from IPLSF Director Doug Herendenen.



Al Frisinger, the third prize winner, receiving the 64GB Apple iPad Mini from IPLSF Director Dan Kovert.



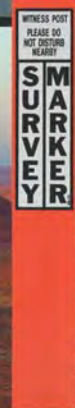
Randall Gann, the fourth prize winner, receiving a GoPro HERO3 Camera from IPLSF Director Chuck Coyle.

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Michael Kline receives a "Last Chance" Gift Card from IPLSF Director Dan Kovert.



Trent Newport receives a "Last Chance" Gift Card from IPLSF Director Chuck Coyle.



Jay Poe receives a "Last Chance" Gift Card from IPLSF Director Doug Herendeen



Kevin Rowland receives a "Last Chance" Gift Card from IPLSF Director Doug Herendeen.

Carlson Software Tip of the Day...

Wiped Out Property Corner Symbols

Problem:

Problem: Lines or polylines of a boundary show up inside your open property corner symbols. See image 1 for an example:

The additional problem is that, if you trim the lines inside the symbols to make it look cleaner, you're actually modifying the length of property lines so the distances from corner-to-corner are no longer accurate.

Here's an alternative: You can download a modified set of Carlson's point symbols that include a "wipeout" entity that hides the lines behind/underneath the open symbols instead of trimming them and changing the length of the lines. Using the new set of symbols, the same property lines and symbols look like those in image 2 (notice that the distances of linework are unchanged):



Image 1



Image 2

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LEGAL SURVEYS

Bryan F. Catlin, PS



The goal of this column is to provide brief summaries of recent Indiana Court of Appeals and Supreme Court cases involving topics related to surveying practice, certainly not to provide legal advice. Information is gathered from the courts website at www.in.gov/judiciary. Comments or suggestions for future columns are welcome by email to: Bryan.Catlin@indy.gov.

Certain Martinsville Annexation Territory Landowners vs. City of Martinsville, Indiana Court of Appeals Case No. 55A01-1402-MI-64, October 2, 2014

In this case from the Morgan Circuit Court, the City of Martinsville introduced a resolution to annex approximately 5,000 acres of land surrounding Martinsville and later adopted a revised ordinance to annex approximately 3,030 acres. The City published a notice of the adoption of the ordinance and remonstrators filed a petition remonstrating against the proposed annexation. A trial was held, evidence and arguments were heard, and the trial court entered a judgment against the remonstrators. This appeal ensued.

On appeal the City contends the appeal should be dismissed as moot because the annexation has now become final and therefore there is no effective relief as appellate courts have no statutory authority to order disannexation. After an overview of annexation in Indiana and the steps Martinsville has taken, and noting that the remonstrators failed to request a stay of the annexation during the appeal, the appeal was dismissed.

All three judges concurred but Judge Baker wrote separately to note that he believes remonstrators should have adequate time to appeal and request a stay before annexation becomes final. He is concerned that a jurisdiction in the future might rush the process of finalizing an annexation before an appeal or stay could be considered.

Susan A. Snyder vs. Town of Yorktown, Delaware County Surveyor, Delaware County Drainage Board, Randall Miller & Associates, Inc., and Watson Excavating, Inc., Indiana Court of Appeals Case No. 18A02-1405-CT-332 October 10, 2014

In this case from the Delaware Circuit Court, the Town of Yorktown wished to improve storm drainage and in conjunction with the Delaware County Drainage Board settled upon a plan where the town and drainage board would share various responsibilities for the new system. The new plan connected to an existing regulated drain on Snyder's property. In 2007 contractors entered Snyder's property and installed a storm pipe that connected to the regulated drain. At no time did Snyder consent to additional right-of-way or easement. Snyder claims the defendants verbally assured her they had authority to extend the easement, misled her, and did not provide information to her about who was responsible for the drain after it was connected to the sewer system. In 2013 a tort claim notice was filed with counts of quiet title, declaratory relief, trespass and unconstitutional partial taking along with numerous claims for relief.

The defendants filed a motion to dismiss the counts for trespass and partial taking and after a hearing, the trial court dismissed those counts and this appeal ensued.

The Appeals Court noted that trespass claims generally must be filed within 180 days but there is possible relief from that limit in certain cases. The court discussed why the arguments brought forth: fraudulent concealment, administrative inaction, continuing wrong and substantial compliance, do not apply in this case. Generally it boiled down to the fact that Snyder knew she had suffered a loss at least a year or so before she filed a tort claim notice.

The Appeals Court noted that the trial court had dismissed the inverse condemnation claim because Snyder had failed to list a known lienholder, her mortgagee, as a party to the claim. The defendants argued and the trial court agreed that Snyder should have followed the same procedure the state is required to follow under the eminent domain statute. However, the Appeals Court notes that the purpose of joining all interested parties in a condemnation proceeding is to protect the rights of those parties, not to protect defendants from potential liability. Further, the Indiana Constitution and the Fifth Amendment to the United States Constitution require just compensation for taking private property for public use. The Indiana Supreme Court has held that failure to name all interested parties to a condemnation action is not a jurisdictional defect because no one's rights may be adversely affected if not a party to litigation. This is also covered by Indiana Trial Rules.

So the dismissal of the trespass claim was upheld, the dismissal of the inverse condemnation claim was reversed, and the case was remanded back to the trial court to proceed.

(Continued on page 26)

(Continued from page 25)

Caddyshack Looper, LLC, vs. Long Beach Advisory Board of Zoning Appeals, Indiana Court of Appeals Case No. 46A03-1404-PL-110, December 4, 2014

Here Caddyshack Looper owns property on the north side of Lake Shore Drive in Long Beach, LaPorte County adjacent to the Lake Michigan beachfront. In December 2010, a storm damaged part of the property creating a five or six foot "cliff". Caddyshack contacted Thomas McCormick, the general contractor who had built the house in 2009. McCormick submitted a building permit application to build a seawall to the Town of Long Beach in January 2011. At the request of the town's Clerk-Treasurer, McCormick indicated on a survey prepared by Steven Thate the proposed seawall location. The building permit, signed by the Clerk-Treasurer, was issued on January 24, 2011. McCormick began construction in early February 2011. At some point Bill Owens, the Long Beach Building Inspector, visited the site, was concerned about the height of the piles, and said the neighbors were complaining. McCormick and Owens agreed that on the west side of the property, McCormick would cut the sheets one foot lower than grade and Owens was satisfied. On March 7, 2011, Owens visited again and told McCormick the neighbors were complaining and to stop work. McCormick was almost done and asked that the stop work order be put in writing. Owens never mentioned that the location of the seawall was a problem. McCormick finished construction the next day.

On March 18, 2011, the town Building Commissioner sent a letter to McCormick stating the it had been discovered that construction had taken place beyond a 106.60 foot (from Lake Shore Drive) waterfront setback per town ordinance. The letter instructed McCormick to immediately stop any work and develop a plan to remove any structures (the seawall and a septic system) that were more than 106.60 feet from the street right-of-way. McCormick received the letter on March 21, 2011, and as of that date, the project was done, the site had been cleared of equipment and debris, and the site had been graded.

In July 2011, Caddyshack filed a petition for a variance to extend the seawall past the 106.60 line 36.6 feet on the west to 36.4 feet on the east. The Board of Zoning Appeals held hearings September 13th and October 11, 2011, where Caddyshack presented testimony and evidence to support a variance. Caddyshack presented the building permit documents, Thate's survey, correspondence and photographs of the damage caused by the December 2010 storm and of the seawall construction. Thate testified that 2005 aerial photography showed approximately thirty-four structures located beyond the 106.60 foot line, about seventeen of which were seawalls. A letter from an appraiser stated that he had looked at the property, did not know of any such improvements that had negative effects on neighboring property values, and that there had long been seawalls for lakefront homes, and he had yet to hear of one that caused an impact to the value of a neighbor. Caddyshack presented estimates to remove the seawall of \$247,575 and \$295,125. A subcontractor who worked on the seawall testified that he believed the seawall helped protect the neighbors and that removal would be difficult, time consuming and costly. Other residents opined that the seawall was an eyesore, that Caddyshack and McCormick should have known of the 106.60 foot restriction in the ordinance and that it would be a bad precedent to grant the variance. Caddyshack's counsel argued that the BZA had granted such variances in the past, including a 27.5 foot variance in August 2011.

The BZA voted to deny the request for variance. In written findings and decisions dated October 11, 2011, they found it was injurious to the morals and general welfare to the citizens of the Town to allow a contractor to build a structure that it should have known violated the ordinance, that a building permit from the Clerk-Treasurer was improperly issued and the contractor operated in peril relying on it. The BZA found the use and value of adjacent property would be adversely affected and that the appraiser's letter did not show a reasonable study was performed on adjacent property. The BZA also found that strict application of the ordinance would not result in practical difficulties in the use of Caddyshack's property because the seawall could be built within the 106.60 foot setback, there is a buried seawall at 103.0 feet, and no testimony stated that that seawall, as it exists or with modification, could not provide the protection Caddyshack believes it needs.

On November 9, 2011, Caddyshack filed a petition for review with the LaPorte Superior Court. On January 7, 2013 the court entered an order affirming the BZA decision. The court found that the ordinance was not an unconstitutional taking and the BZA was not estopped from denying the variance. Relying on IC 36-7-4-918.5, the court evaluated when a variance approval would be injurious to the public, when the use and value of the area would not be affected in a substantially adverse manner, and when the strict application would result in practical difficulties in the use of the property. The court found there was no evidence McCormick should have known a permit signed by the Clerk-Treasurer was invalid, there was no evidence that the Clerk-Treasurer was unauthorized to sign the permit, that Owens visited the site several times and did not contest the building permit, and there was no evidence that would make a reasonable person believe the permit was invalid. The court found it was undisputed that Owens verbally asked for construction to stop on March 7, 2011 and that McCormick received a written stop work order on March 21, 2011

(Continued on page 27)

(Continued from page 26)

when work was done and the site cleaned up. The court did not agree that obtaining an invalid permit and not knowing about the setback was injurious to the public as the BZA reasoned. The court also observed that the claims of the remonstrators were not backed by evidence and were mere personal opinions. The court concluded not a single reason given by the BZA was about the protected view or would be injurious to the public. With respect to whether the use and value of adjacent areas would be affected, the court found that the unexplained BZA dismissal of the testimony of the professional land surveyor and professional land appraiser and all evidence to support their opinions is erroneous and that no evidence was presented that views have been blocked or use or value substantially affected. As for practical difficulties in strictly applying the ordinance, whether there was significant economic injury, whether the injury was self-created and whether there were feasible alternatives, the court noted there could be potential storm damage and there would be significant costs in removing the seawall. But the court found that there was not enough evidence that there will be significant economic injury, feasible alternatives have not been explored and that there was no evidence that a seawall could not be constructed in compliance with ordinance, so it could not conclude the BZA findings were wrong on that point. The court did find that Caddyshack should have been aware of the setback and that even though there were significant costs in removing the seawall that they were not a significant economic injury and that injury was largely self-imposed. The trial court did not believe evidence proving no other feasible location had been presented.

Finding that Caddyshack failed to prove practical difficulties in locating the seawall elsewhere, the trial court upheld the BZA decision.

On appeal, the practical difficulties were the issue and the court found that because of the location of a pool and septic system along with the logistics of installing a seawall and anchors, Caddyshack would have practical difficulties complying with the ordinance. The decision of the trial court affirming the BZA decision was reversed and the case remanded for any necessary proceedings.

Metro Holdings One, LLC, Exproman, Inc., and Quaker Sales & Distribution vs. Flynn Creek Partner, LLC, Indiana Court of Appeals Case No. 32A01-1309-PL-374, December 30, 2014

In this case from the Hendricks Superior Court, Metro Holdings desired to opt out of a purchase agreement for property that was originally to be used for an expansion of a site occupied by Quaker. However, because they did not meet the terms of the purchase agreement which might have allowed this, the trial court and the appeals court have agreed that they must purchase the property they no longer want from Flynn Creek for approximately \$3.4 million.

There is no real survey issue raised here, but this case is illuminating about the issues our clients can face as a buyer or seller. Clifford Garrett and Judith Ann Garrett vs. Paul T. Spear and Linda Spear, Indiana Court of Appeals Case No. 23A01-1407-PL-277, December 31, 2014

This is a case from the Fountain Circuit Court which has previously been before the Court of Appeals with an opinion on November 20, 2013. In that ruling, Spear was ordered to obtain and record a survey showing the boundary as one and one-half feet north of the fence line. Garrett now argues that the trial court was wrong in indicating Spear complied with the trial court's ruling as affirmed by the Court of Appeals. However the Appeals Court finds that Garrett is wrong in assuming that Spear was required to submit evidence of compliance when notice is all that is required. Other avenues are available to Garrett if Spear has not met his obligation.

Denny Gene Inman and Lois Inman vs. Charles L. Turner and Jennifer C. Turner, Indiana Court of Appeals Case No. 47A04-1402-PL-80, October 2, 2014 - MEMORANDUM DECISION - not regarded as precedent

Since Fraley v. Minger is still reasonably new, I have included more of this opinion than normal. I have still condensed it considerably from the original six page opinion.

Denny Inman and Charles Turner own two adjacent parcels of land in Lawrence County several miles north of Bedford. The parcels are rectangular and approximately two acres each. Inman's parcel is west of Turner's. A fence runs from north to south through Turner's parcel, dividing it approximately in half.

(Continued on page 28)

(Continued from page 27)

In October 2009, Turner and his wife filed a complaint to quiet title concerning land adjacent to theirs that is not the subject of this appeal. In December 2009, Inman filed a counterclaim against Turner for adverse possession of half of Turner's parcel. Inman claimed that he had adversely possessed the half of Turner's parcel that ran from the edge of Inman's parcel eastward to the fence that divided Turner's parcel in half.

A bench trial was held in the Lawrence Circuit Court which found that Inman failed to prove adverse possession. Inman appealed. The requirements of *Fraley v. Minger*, 829 N.E.2d 476, 486 (Ind. 2005) to prove adverse possession were evaluated by the Appeals Court.

Inman was required to show that he exerted control over the land. Inman claims that he proved this by testifying that he farmed the land and kept cattle on the land. However, the trial court found that "Inman did not offer photographs showing farming activities in the past or livestock on the property" and that he "did not offer any tax records or other documents to show farming activities that occurred on the land for any period of time". The trial court also found that Inman's use of the land was not exclusive, noting that the Turners also "used the land for personal enjoyment by driving recreational vehicles on the land and hunting". Thus, the evidence before the trial court supported its conclusion that Inman failed to prove the element of control.

Inman was next required to show intent to claim full ownership of the tract superior to the rights of all others, particularly the legal owner. Inman claims that he proved this by testifying that he believed he owned the land and that he at one point told this to Turner. The trial court found otherwise, noting that the only evidence Inman produced concerning his intent was his own testimony regarding his subjective belief that he owned the land.

(Continued on page 29)

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(Continued from page 28)

Inman was also required to show that his actions with respect to the land were sufficient to give actual or constructive notice to the legal owner of his intent and exclusive control. Inman again points to his testimony concerning his farming of the land as well as his testimony that he at one point told Turner that he believed he owned the land. However, because the trial court had already found that Inman failed to show that he controlled the land or that he intended to do so, there was no need to consider whether Inman had done either of these things to an extent which would give Turner notice.

In addition, Inman was required to show duration - that he satisfied each of these elements for ten years. Here, the trial court found that "Inman did not testify as to what period of time he farmed the land or kept livestock on the land" and that he "has not farmed or kept livestock on the land for over 20 years". The lack of evidence regarding duration supports the trial court's conclusion on this issue.

In addition to the Fraley factors, Inman was required to prove that he reasonably believed he had paid taxes on the land in good faith throughout the period of adverse possession as required by Indiana Code section 32-21-7-1. Inman argues that he proved that he substantially complied, which can satisfy the adverse possession tax statute. However, the trial court noted that the land Inman claimed by adverse possession would have enlarged his total amount of land by 50% and increased his property tax bill accordingly. The trial court found that it would be unreasonable for Inman to believe that he had been paying property taxes on three acres of land when he had in fact only paid property taxes on his own two acres. This conclusion is reasonable and supported by evidence in the record.

Given the evidence in the record, it is questionable whether Inman has proven a single element of adverse possession. The judgment of the trial court was affirmed.

Dennis Wright vs. LaCabreah Community Association, Inc., Indiana Court of Appeals Case No. 02A03-1403-PL-107, December 16, 2014 - MEMORANDUM DECISION - not regarded as precedent

Here is a case from the Allen Circuit Court where Wright wanted to build a fence on his property. After having his plans denied by the Architectural Control Committee, he still built a fence. The Association then filed suit to enjoin Wright and demand removal of his fence as a violation of restrictive covenants. In short, the trial and appeals courts held for the homeowners association, even though a part of the covenants is ambiguous and the committee's action might have been capricious, because Wright deliberately violated the covenants by building the fence without approval.

Michelle Barnes and Raymond Surzycki vs. Prairie Horse Farms, LLC, Indiana Court of Appeals Case No. 53A01-1404-PL-178, December 30, 2014 - MEMORANDUM DECISION - not regarded as precedent

First I would like to comment that this is the first case I have come across on the Courts website which included graphics. These were very helpful in visualizing the situation being described.

This case from the Monroe Circuit Court deals with property owners (Barnes and Surzycki) who by placement of posts, postholes, dirt mounds, unfilled trenches, placement of trash containers and standing in the way of construction vehicles prevented Prairie Horse Farms from using the ingress-egress easement they had for a Lot 2 over the entire Barnes/Surzycki property.

As might be expected, the trial and appeals court held for Prairie Horse Farms. One point that stands out is that both courts also allowed Prairie Horse Farms to use a gate on Lot 1 which they also owned and which also ran along the easement but was not a part of the dominant estate described in the easement document, to be used for access from the easement to Lot 2 across Lot 1.

Bryan F. Catlin, PS has been registered as a Land Surveyor in Indiana since 1991. He holds B.S. Land Surveying Engineering and M.S. Engineering (geodesy) degrees from Purdue University.

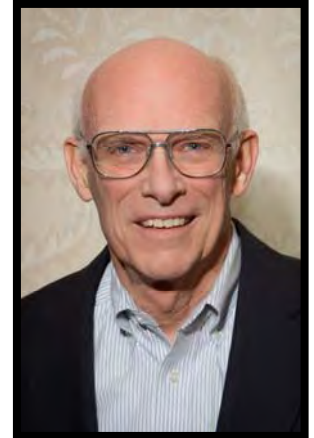
INDIANA-MICHIGAN STATE LINE COMMISSION - MEETING HIGHLIGHTS

By Mike Davis

Minutes Provided by Office of Land Survey and Remonumentation,
Department of Licensing and Regulatory Affairs, State of Michigan

October 14, 2014

The Indiana-Michigan Boundary Line Commission met Tuesday, Oct. 14, in the County Commissioners Meeting Room on the seventh floor of the County City Building, 227 W. Jefferson Blvd., South Bend, Ind. Commission members present were John McNamara, chairman, Indiana; David Mostrom, vice-chairman, Michigan; Brad Cramer, Anthony Hendricks and Michael Ruff, Indiana; and John Kamer, Michael Lodzinski and Chris Marbach, Michigan. Those not present were Rex Pranger, Indiana; and Edward Reed, Michigan. The Oct. 14 meeting agenda and the minutes from the July 8 meeting were approved.



Chris Beland, director of the state of Michigan's Office of Land Survey and Remonumentation, reported that a letter sent Aug. 8, 2014, to state officials in Indiana and Michigan, requesting that the states' legislatures increase their funding to \$1 million apiece to complete the project, did not have time to be introduced to Michigan's legislature in 2014.

The letter said the commission had concluded the previous funding of a total of \$1 million was insufficient to complete the survey and remonumentation of the Indiana-Michigan border. This was based on the commission's position that time and elements had likely obliterated most of the original evidence, requiring a retracement survey of all 110 miles of the boundary line as well as remonumentation of most of the 125 mile and meander posts marking the border. Estimates indicated the actual cost of the project could reach \$2 million.

Chairman John McNamara said surveyors he talked with had voiced problems concerning the scope of the services to be provided. He said he believed the commission's objective should be to put in the mile posts originally set in 1827 by U.S. Deputy Surveyor Eleazer P. Kendrick, and the commission should not be trying to tie in property corners, since that would only increase the project's cost. Commissioner John Kamer agreed and said the commission needs to decide which direction makes the most sense to take. However, Commissioner Michael Ruff said that in cases where original monuments that had been destroyed were the basis for determining property lines, tying into some of the property corners was a necessity.

Kamer said surveys done along the state line in Michigan's Berrien County paid no attention to the mile posts, and Commissioner Chris Marbach said the same was the case in counties where he had worked because there were no record of mile posts.

After a discussion of potential legal issues resulting from replacing the mile posts, McNamara said he felt it was not the commission's responsibility to work out legal details that might ensue.

Commissioner Anthony Hendricks expressed concern that the draft request for proposal seeks a very detailed analysis. Beland said he understood that the commission would be evaluating a consultant's work and would want to see all evidence considered in making determinations. Vice-chairman David Mostrom said the real question is can the commission tweak the scope enough to get it near the budget amount and move ahead.

In a discussion of expenses, Beland said monuments for 102 mile posts, 16 meander posts and the northeast corner of Indiana would cost \$300,000. He said commission and staff costs would be added to that. Keith Lambert, deputy director of Michigan's Bureau of Construction Codes, said he believed it would be difficult to get support for more money from Michigan. He said the commission should consider how much it will take to do the project and look at how much it can get done with the funding that has been approved.

Hendricks mentioned the possibility of splitting the contract into two prices — one for the resurvey of the state line and the other to set post monuments. He said local funds might be available to help offset the cost of setting the monuments and lower the overall project cost. Beland said that is comparable to what was done in resurveying the boundary between North Carolina and South Carolina. McNamara said it was an interesting concept, but he would prefer that the commission pay the entire price.

(Continued on page 31)

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Regarding the cost of monuments, Mostrom asked if that could be lowered to around \$100,000. McNamara suggested using monuments from Harrison Marker Co., and Marbach said he also was in favor of a less-expensive alternative.

After discussing how to reword parts of the scope of work, the commission reviewed the standard requirements in the draft request for proposal and recommended the following:

- No change in Requirement 1, which calls for all work to meet Rule 12 of Title 865 of the Indiana Administrative Code as related to retracement surveys and section corner perpetuation, and all other local, state and federal regulations and standards of practice governing surveying in Indiana and Michigan.

- Merge items 2 and 3. Item 2 said the contractor would not be required to resolve title or ownership conflicts resulting from the project, but would be aware of issues involved and make an effort to prevent creating conflicts. Item 3 required the contractor to attend commission meetings as needed or as the commission requested.

- Delete item 4, which called for the contractor to provide written notice to all property owners before starting work on their lands.

- Revise items 5, 6 and 7 and combine as necessary, and define coordinate work based on whichever is greater of the standards of state departments of transportation in Indiana and Michigan. Monuments will be provided by the commission. They will be a 5-inch diameter precast concrete cylinder 36 inches long with a 3/4-inch ferrous reinforcing bar running the length of the cylinder. Brass caps previously obtained by Indiana's St. Joseph County will be cast in the top of the concrete cylinder. Item 5 related to coordinating with proper agencies and adhering to safety standards when work is done is roadways. Item 6 stated deliverable dates would be outlined in contracts. Item 7 said any monument recovered would be the property of the commission.

- No change to item 8, which says mile or meander post locations must be perpetuated in accordance with 865 IAC 1-12-20. Also, an anticipated search area and excavation plan must receive the commission's approval before excavation begins on post locations, and the contractor's report must be posted for public review and comment for 30 days before the commission's approval. Item 9 says a monument must be perpetuated or established at mile and meander post locations, although the location may be altered with the commission's approval. The commission will provide post monuments, caps and markers.

- Modify language to reflect that only data and records used by the contractor, rather than all data, be provided to the commission, allowing additional information to be requested.

The commission also approved a draft schedule of 2015 meetings as follows: Jan. 13, Feb. 10, May 12, Aug. 11 and Nov. 10. All are at 11 a.m. The Feb. 10 session was subsequently cancelled.

November 12, 2014

The Indiana-Michigan Boundary Line Commission met Tuesday, Nov. 12, in the County Commissioners Meeting Room on the seventh floor of the County City Building, 227 W. Jefferson Blvd., South Bend, Ind. Commission members present were John McNamara, chairman, Brad Cramer, Anthony Hendricks and Michael Ruff, Indiana; and John Kamer, Michael Lodzinski and Chris Marbach, Michigan. Those not present were Rex Pranger, Indiana; and David Mostrom, vice-chairman, and Edward Reed, Michigan. Also attending was Rich Hudson, PS, Indiana. The Nov. 12 meeting agenda and the minutes from the Oct. 14 meeting were approved.

Chris Beland, director of the state of Michigan's Office of Land Survey and Remonumentation, commented on the status of modifications to the statement of work in the draft request for proposal for the Indiana-Michigan Boundary Line Retracement and Remonumentation. He said he attempted to reduce confusion or questions regarding compliance with state standards by citing specific rules, including requirements of the Indiana Administrative Code. He noted that Michigan does not have comparable detail in its laws and administrative code.

Commissioner Michael Ruff remarked that Indiana has not updated its rules for professional surveyors for eight years, and he suggested making a reference to the current standard in case the rules are changed soon.

(Continued on page 32)

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The discussion continued on a range of topics including language in various sections of the draft request for proposal and in requirements of Indiana's Rule 12, Land Surveying and Competent Practice. Chairman John McNamara said he considered the state line survey and remonumentation effort to be more of a section corner perpetuation than a retracement of survey, and Commissioner Chris Marbach said Section 30 of Indiana's Rule 12, dealing with Section Corner Perpetuation, outlines what the commission wants at each mile post. Beland noted that the enabling legislation describes the work as a survey, not a resurvey.

More discussion followed on Title 865 of the Indiana Administrative Code, which governs the actions of Professional Surveyors; whether Title 865 or Section 30 should be referenced; if legal counsel should be sought; and why the commission is doing the survey and if there is a substantial need for it. Marbach responded to the latter question, saying the survey was being done because the senior (state) line was missing.

A motion was adopted by a 6-1 vote that revised Standard Requirement No. 1 in the request for proposal to read "all work must be completed in accordance with all applicable local, state and federal law rules regulations and standards of practice governing the practice of surveying in the states of Indiana and Michigan."

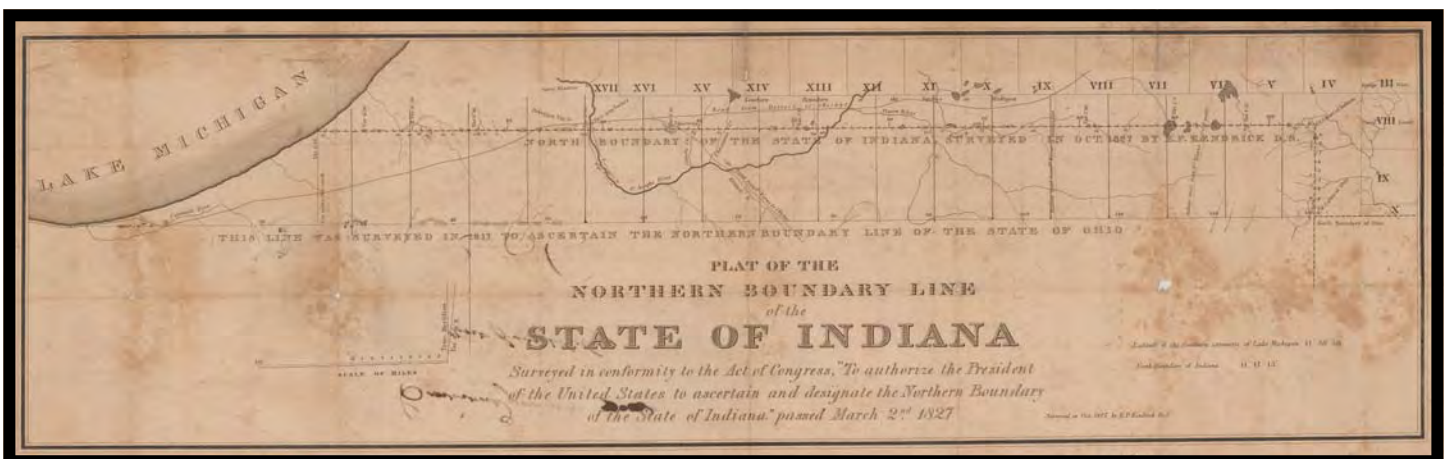
A motion was defeated by a vote of 5 to 2 that would have requested legal opinion regarding whether the term "survey ... of the ... border" requires compliance with the retracement section of Rule 12, Title 865.

The commission made a number of suggested changes to language in the request for proposal's requirements, including:

- In item 4, which pertains to written notice to property owners, change to "Commission will draft a standard letter to be mailed out by contractor."
- In item 7, which pertains to monuments recovered, change to "Any state line mile post, and meander post, is the property of the Commission."
- In item 8, which pertains to procedures and requirements of recovering or re-establishing monuments, change it to read "conform with Rule 12, Section 30."
- In item 10, which pertains to geodetic observations and positional calculations, change the positional accuracy required to the equivalent of Rule 12 Urban Survey.
- In item 12, which pertains to the plat of survey, state that the "drawing should be at a minimum in accordance with Rule 12, Section 30."
- In item 13d, which pertains to copies of research materials, delete the word "retracement" from the phrase "retracement survey" and address usage of the word "retracement" throughout the entire request for proposal.

Before adjourning, the commission cancelled its December meeting.

(Note: Draft minutes of the meeting of Jan. 13, 2015, are available at http://www.michigan.gov/documents/lara/lara_bcc_indiana_mi_draft_minutes_011315_480624_7.pdf)



Map of the 1827 survey of the northern boundary of Indiana by Deputy Surveyor Eleazer P. Kendrick



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July 1, 2014- June 30, 2015



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Applicant's Signature: _____ Date: _____

MEMBERSHIP CATEGORIES

PROFESSIONAL MEMBER: A Professional Member of this Corporation shall be limited to Registered Land Surveyors in good standing with the Indiana State Board of Registration for Land Surveyors. A Professional Member shall be eligible to vote, hold office and to participate fully in the affairs of the corporation.

ASSOCIATE: An Associate membership will be granted to those non-registered individuals who are actively engaged in support of the practice of land surveying. An Associate Member is entitled to vote and participate fully in the affairs of the Corporation but shall not be entitled to hold office. Associate Members shall, at such time that they become Registered Land Surveyors in good standing with the Indiana State Board of Registration for Land Surveyors, become Professional Members without further vote of the Board of Directors of this Corporation.

AFFILIATE: An Affiliate membership will be granted to those individuals who qualify under the following provisions:

- a) Anyone who is affiliated with the Land Surveying profession or
- b) Any Non-Resident who is registered and in good standing as a Land Surveyor in a state other than Indiana.

An Affiliate Member is not entitled to vote, or to hold office but will receive newsletters and be invited to participate in meetings.

STUDENT: A Student membership will be granted to those non-registered individuals who are endeavoring to make surveying their chosen career and who are enrolled as a full time student as defined by the university or school they are attending. Membership in this class shall not exceed a total of (5) years. A Student Member is not entitled to vote or hold office, but will receive newsletters and be invited to participate in meetings.

LIFE: Any person holding Professional Member status shall be eligible to petition the Board of Directors to change his membership to that of a Life Member. If the Board of Directors finds that the Professional Member so petitioning has reached the age of 65 years and has been a Professional Member (or Member before July 1, 1999) of this Corporation for at least a total of twenty (20) years, it shall grant the petition and the Professional Member will become a Life Member. If the Board of Directors finds that the Professional Member so petitioning has not fulfilled the above requirements, the Board may grant a petition if it finds that the Professional Member has retired from active practice for reasons of health and is no longer engaged in Land Surveying. Life Members shall be furnished with a Life Membership card and Certificate and such membership shall take effect upon approval by the Board of Directors. Life Members shall not be subject to payment of dues, but shall enjoy all the rights and privileges of full Professional Member status in this Corporation.

To view and read the ISPLS Constitution, By-Laws, Code of Ethics, and the Memorandum of Understanding with NSPS, please visit www.ispls.org and About ISPLS.

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