

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.



PROMOTING THE PROFESSION

Members of the Northwest Chapter of ISPLS promoted the surveying profession at the 31st Annual Antique Tractor and Farm Show hosted by South Lake County Agricultural Historical Society. Pictured above are Northwest Chapter Members Raiford Putnam and Frank Walsko. The complete article can be found on pages 32-33.

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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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 Co-Chair: Brent Friend

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Chair: Don West

TRIG STAR

State Coordinator:
 Tony Gregory

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CONTENTS

<i>Masthead</i>	3
<i>President's Message</i>	4-5
<i>ISPLS Board of Directors Meeting Highlights</i>	6-10
<i>Completed Career: Phillip R. Peterson</i>	10
<i>Board of Registration for Land Surveyors Meeting Highlights</i>	12-14
<i>Trig-Star Program—2015</i>	17
<i>A Marvelous Map</i>	18-21
<i>IPLSF - Report to the ISPLS Membership</i>	22-23
<i>Legal Surveys</i>	25-29
<i>Indiana-Michigan State Line Commission - Meeting Highlights</i>	30
<i>Promoting the Profession – Why not Tractor Pulls and Pancakes?</i>	32-33
<i>Indiana's Job Creation Committee</i>	34-37
<i>Membership Application</i>	38-39
<i>Firm Members</i>	40-43

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

Bernie Guerrettaz PS, 2015 ISPLS President

Fellow Members of ISPLS:



As we move into the fall months, we begin seeing things around us moving into preparation for the end of the calendar year. For example, many construction projects are looking to wrap up at the close of November in anticipation of wetter weather and the asphalt plants shutting down and employees are looking forward to taking some time off after a busy summer with maybe a hunting trip or weekend jaunts with their family over the various school breaks. Once we get through October we move into the holiday mode of Thanksgiving and Christmas, the New Year will be upon us and then, just maybe we can breathe for a moment and move into the expectations of 2016 which will already be upon us.

Knowing all of this, we will find ourselves preparing for increased workload as we close out projects. The farm surveys that have been awaiting the leaves dropping and crop harvests will start and the construction projects needing buttoned up before winter will need our services to assist them with that goal. Hectic as this time can be, it can be very rewarding.

Aside from the anticipated increase in workloads, the activities of ISPLS continue to move forward with your help as an interested and active Member. ISPLS activities may include efforts with your individual Chapter or efforts associated with the Convention in January. This all takes your time and on behalf of the ISPLS Board of Directors, your work is appreciated. If you decide to renew or begin involvement with ISPLS, send me an email at btongtaz@yahoo.com and I will direct you to a committee or to your chapter. There are big and small opportunities in ISPLS for everyone.

As you likely saw in a recent email two examples of this service and commitment to ISPLS are Eric Banschbach, PS and Bryan Catlin, PS. Both of these gentlemen have placed themselves up for consideration for President-Elect for 2016 meaning one will be the ISPLS President in 2017. Both men have exceptional skills and are qualified to lead. Each has a past of commitment to the Society and their Local Chapter and the Foundation. I applaud them on their continued hard work for our Membership. What I am asking of you is to please take a few minutes and vote. Paper ballots are still available, but our electronic voting platform is so simple to use it truly won't take but just a few minutes to cast your vote for Eric or Bryan. The electronic voting platform can be accessed via the email Jason Coyle, PS, Executive Director ISPLS sent or by logging into the ISPLS Website.

In advance of our October 24, 2015 ISPLS Board of Directors meeting I want to thank Bill Clark and Austin Yake, from the Vincennes University Land Surveying Department. Bill and Austin will be hosting the meeting in the Technology Building on the Vincennes Campus, as the program has done for many years. At that meeting Bill and Austin will share with us program information since we last met in 2014, in addition to current statistics of the program. Vincennes University offers a true value in higher education and we appreciate Bill and Austin's time and effort as they host this important meeting.

(Continued on page 5)

(Continued from page 4)

The only to remarks I want to make regarding pending matters of ISPLS is first to remind all of you to please be sure to make the appropriate utility locate request via Indiana811 with respect to your projects. In addition and nearly as important please document their performance and make the necessary second call into Indiana811 if the locate work was not performed properly or timely. Your effort in this regard as a responsible professional will make a difference in the services the public receives by this entity. Your feedback is a tool for them to understand what improvements need made to the process and further what oversight is required to make the program effective and useful. Secondly, again, please familiarize yourself with the Statute of Repose regarding your individual professional liability.

So with that, I leave you with one last thought. "Stop Look and Listen". Lessons of Operation Safety in the Railroad Industry ring true in our profession too. Pay attention and be safe.

Very truly yours,

Bernie Guerrettaz PS,
2015 ISPLS President

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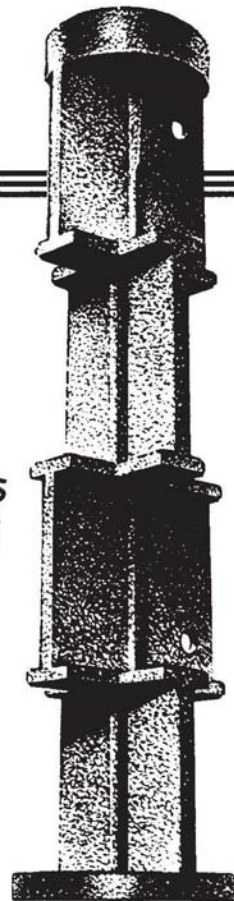
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ISPLS BOARD OF DIRECTORS MEETING HIGHLIGHTS

By Andrea Wade, ISPLS Administrative Assistant

May 16, 2015

The ISPLS Board of Directors met on Saturday, May 16, 2015 at ISPLS Headquarters, in Plainfield, Indiana. President Bernie Guerrettaz called the meeting to order at 9:02 am EST. All board members were in attendance with the exception of Eric Banschbach, Todd Bauer, Rich Hudson, Don West, and Don Williams.

Brent Friend read the ISPLS Mission Statement and Perry Cloyd read the Vision Statement. Both statements were also printed in the agenda. An adjustment had been made to the meeting agenda, and Dennis Grumpp asked that a funds transfer was to be considered. A motion to add consideration of a funds transfer to the agenda was made by Jim Tibbett and seconded by Brent Friend. The motion passed by a voice vote.

The minutes from the April 18, 2015 Board meeting were presented for review. A motion to approve the minutes was made by Jim Tibbett and seconded by Sean Suttles. The motion passed by a voice vote.

The written financial reports dated April 30, 2015 were presented for board review by Dennis Grumpp, with assets totaling \$243,524.46. Dennis also covered the income and expense report, the investment report, the profit and loss budget versus actuals report, the profit and loss budget versus projected actuals report and the 2014-2015 budget spreadsheet. It was noted that reports are beginning to show the changes and/or savings that are provided by the new association management agreement. A motion to allow Jason Coyle to assume payments for his current disability insurance, if he desires to do so, was made by Bryan Catlin and seconded by Jim Tibbett.

Dennis Grumpp provided information about the deficits that have accumulated over the last three years as well as this year. These have been the result of not transferring sufficient funds from the return on ISPLS investments (not IPLSF funds) to cover the entire yearly deficit. Dennis noted that the cumulative deficit will be around \$18,000 and suggested transferring \$20,000 from investments to operations. The proposed budget for next year plans for an approximate \$9,000 surplus while recent proposed budgets had planned deficits. A motion to accept and receive the financial reports was made by Jim Tibbett and seconded by Sean Suttles. The motion passed by voice vote. A motion to transfer \$20,000 from the ISPLS investment account to the checking account was made by Dennis Grumpp and seconded by Perry Cloyd. The motion passed by voice vote.

Executive Director Coyle presented a written report and discussed highlights with the board. The highlights included: Two computers have been moved to Banning Engineering. Banning Engineering has hired Andrea Wade as a part-time administrative assistant and she will be performing tasks under Jason's direction per the new management agreement. The 990-N e-postcards for the chapters have been filed, and convention speakers have been arranged. Jason and others will investigate CPA fees and options for our needs. A motion to use Banning Engineering's address for ISPLS purposes was made by Jim Tibbett and seconded by Dennis Grumpp. The motion passed by voice vote. A motion to move the telephone number to Banning's location and cancel internet service (now covered under the management agreement) was made by Jim Tibbett, and seconded by Perry Cloyd. The motion passed by voice vote.

There was a discussion about storing furniture and other office equipment as it relates to possible management options we might pursue in the future. A motion instructing Jason to offer furniture and office equipment (not currently needed) to the membership by June 5th, and thereafter to liquidate it by other means to be determined by Jason, was made by Jim Tibbett and seconded by Perry Cloyd. The motion passed by voice vote.

(Continued on page 7)

(Continued from page 6)

The board also reviewed some official business conducted via e-mail by the board members. It was discussed that Barnes & Thornburg would review the Banning Engineering Management Contract. It was approved with 9 votes in favor, no votes against, and 3 abstentions during a period from May to July 2015.

ISPLS Committee reports: Within the Communications Committee Group, the Membership Committee/New Member reviews representatives Ron Wharry and Brent Friend are planning to reach out to former members as well as look at encouraging future members. More information is planned to be provided for this topic.

Dave Gaston, the County Surveyors Liaison, is working with Bernie Guerrettaz to draft a letter to county governments about the importance of county surveyors and their records. Tony Gregory attended the Spring NSPS meeting and submitted a written report. The Scholarship Committee reported that Purdue and Vincennes interviews have been conducted. Frank Walsko with Young Professionals sent a report of his activities. Bernie asked the board to provide more feedback to Frank to encourage his efforts.

Perry Cloyd reported that the foundation had agreed to provide the Indiana Geographic Information Council \$5,000 per year for the next three years to support the Indiana Map. A grant request from the Parke County Recorder for a scanner/copier/printer received 40% funding. A general Indiana Resident survey related scholarship (not tied to a specific school) has been approved for 2016.

Chapter Reports: The Hoosier Hills Chapter president, Chuck Coyle, presented the memorandum of understanding for setting up an endowment through the foundation. The Northwest Chapter held a meeting on May 8, 2015. The Southwest Chapter will be holding a meeting May 21, 2015 at the Log Inn.

Unfinished Business: Stephen Ingram is scheduled for the Board of Directors meeting on June 27, 2015. Bernie Guerrettaz will respond to the applicants for the executive director's position. Dennis Grumpp presented the proposed 2015-2016 budget. The proposed ISPLS income is \$309,616.40, while proposed expenses are \$299,291.40 leaving a \$9,695.00 surplus. The proposed budget reflects the management company taking over many office costs as well as payroll related costs. This budget was prepared to be conservative in estimating income and liberal in estimating expenses.

The next meeting is scheduled for June 27, 2015 at the new ISPLS location, Banning Engineering.

The meeting adjourned at 1:24 pm.

June 27, 2015

The ISPLS Board of Directors met on Saturday, June 27, 2015 at ISPLS Headquarters, Plainfield, Indiana. President Bernie Guerrettaz called the meeting to order at 10:11am EST. All board members were in attendance with the exception of Todd Bauer, Brent Friend, Sean Suttles, and Don Williams. Others in attendance were Andrea Wade and Jeff Henson from Banning, and Rich Hudson's grandson Brady.

Dennis Grumpp read the ISPLS Mission Statement and Rich Hudson read the Vision Statement. Printed copies of the agenda were provided. Adjustments were made to the agenda, and Bernie Guerrettaz asked that IGIC representation be added to unfinished business and that a report on PAC activity be added. Later in the meeting, Bernie had asked that Dr. Van Gelder's membership status be discussed. A motion to add discussion of the IGIC representative and the PAC report to the agenda was made by Dennis Grumpp and seconded by Rich Hudson. The motion was passed by a voice vote. The addition of Dr. Boudewijn van Gelder's membership status was accepted by consent. The May 16, 2015 Board of Direc-

(Continued on page 9)

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tor's meeting minutes were presented for review. A motion to approve the minutes as amended to note Dan Kovert as the IPLS Foundation liaison was made by Eric Banschbach and seconded by Perry Cloyd. The motion passed by voice vote.

Financial Report: The Treasurer's Reports were reviewed and narrated by Dennis Grumpp. The written financial reports dated May 31, 2015 were presented and ISPLS assets totaled \$232,555.31. Dennis also covered the income and expense report, investment report, budget, and the profit and loss budget versus actuals report, and the 2014/2015 budget spreadsheet. A motion to accept/receive the financial reports was made by Perry Cloyd and seconded by Jim Tibbett. The motion passed by a voice vote.

Dennis reviewed the proposed 2015/2016 budget with income estimated at \$309,616.40. After discussion by the board, there was a motion to add additional monies to the Legal Services, Lobbyist, Miscellaneous Expenses, and NSPS Director categories. The addition of the monies to those accounts is to help balance proposed expenses with the estimated income and to approve the revised proposed budget made by Perry Cloyd and seconded by Rich Hudson. The motion was passed by voice vote.

Executive Director Jason Coyle gave the Board his written Executive Director's report. The report included the following highlights: Membership renewal notices have been sent out and reminder notices will soon be sent out as well, and "Yourmembership.com" content will be updated. The 2016 ISPLS Convention schedule is mostly complete. The committee is working on giveaways and the spouse's gift. Jason had asked Perry Cloyd about the recent Damage Prevention Council meetings, and they are seeing the same issues as in the past. The next issue of the Hoosier Surveyor is starting to take form, and should be published soon. Jason reported on the Indiana Job Creation Council meeting and report. Bernie will send out a letter responding to the council on ISPLS's behalf, and Don West will do the same on the past president's behalf. Walker and Associates have been asked about officers and directors insurance. Jason is collecting proposed fees for CPA and Accounting services. The old ISPLS office is mostly empty after the last large items were moved this morning.

ISPLS Committee reports: Ron Wharry and Brent Friend submitted a written report on behalf of the Membership Committee/New Member Reviews. The Board of Registration Liaison, Jason Coyle, reported that the next meeting is July 24. The County Surveyors Liaison, Dave Gaston, has been aiding the new Sullivan County Surveyor. From the Geodetic Control Workgroup, there will be new money available July 1. The new coordinate system information is being looked at by EPSG, the Geomatics Committee of the International Association of Oil and Gas Producers; and a user handbook, workshops, and seminars are being prepared. The By-Laws Committee is working on "member in good standing". The Past President's Council is working on the Job Creation Committee letter. Frank Walsko with the Young Professionals Committee sent a report via email. The Facility Advisory Committee is working to finalize the move with the Emerson Avenue landlord.

Dan Kovert, IPLS Foundation Liaison, discussed their June 8 meeting and said they had reviewed statewide scholarships, raffle, and the budget.

Chapter Reports: The Central Indiana Chapter met June 25, and conducted a roundtable discussion about writing legal descriptions and legislative needs. The Greenville Treaty Chapter aided the family of a deceased member. Hoosier Hills Chapter transferred \$10,000.00 to IPLSF according to the memorandum of understanding. The Northeast Chapter met June 24, and Tom Peak spoke at the meeting. The Northwest Chapter had 63 people attend their "Night with The Railcats" game. They will have a golf outing and scholarship presentation on July 10.

Unfinished Business: Stephen Ingram is scheduled for the next Board of Directors meeting on August 8. Bernie Guerrettaz has responded to the applicants for the executive director's position, and he had one response from an applicant. Bernie also presented a draft letter he will send to county officials regarding the importance of retaining public

(Continued from page 9)

records. The surplus office furniture has been sold, or otherwise disposed of. It had been clarified that Eric Banschbach is the ISPLS representative to the IGIC Board of Directors.

The Board discussed the following items under new business: The Indiana Professional Land Surveyors Political Action Committee sent an email regarding their recent activities. There was an initial discussion about possible legislative needs. There was a discussion regarding Dr. Boudewijn H W van Gelder's membership status, and the support he has provided to Indiana Surveyors. A motion was made to grant him honorary membership by Rich Hudson and seconded by Eric Banschbach. The motion passed by voice vote. Bernie had questions concerning the invoice from Barnes & Thornburg. The invoice was regarding the review of the consultancy agreement with Banning Engineering. He has not yet heard from them.

There was a brief discussion of the boundary survey practices of surveyor. There was also a discussion about a list of associations that ISPLS could ally with in dealing with legislative issues. The list will be sent to Jason and Bernie for consideration.

Announcements: The next meeting will be held August 8, at Banning Engineering.

The meeting adjourned at 1:21 pm EST.

COMPLETED CAREER

PHILIP R. PETERSON 1924 - 2015

Madison - Phillip R. Peterson, age 90, passed away on Thursday, June 18, 2015, at Oakwood Village East in Madison, Wisconsin. He was born on October 3, 1924 in Madison, the son of William and Marion (Armstrong) Peterson. He was married to his wife of 57 years, Doris Virginia Droster, on Oct. 19, 1946 at Sun Prairie United Methodist Church.

He attended Sunnyside School and East High School. He co-founded Berntsen International, Inc. in 1972, a family business that manufactures products for land surveying and marking infrastructure. He retired as president in 1990 and remained active as chairman of the board. He made extensive travels nationwide to develop the business, including 21 trips to Alaska. Philanthropy was important to Phil. He established annual scholarships through national and state surveying societies, and gave to many other charitable causes. He was proud of his military service in the South Pacific during World War II.

He is survived by his daughter, Rhonda (Williams) Rushing; his granddaughter, Naomi (Jason) Rahn; his great-grandson, Calvin Rahn; his sister, Pauline Bredeson; his sister-in-law Jeanette Livie; many nieces and nephews; and close family friend Ginny Nickeson.

He was preceded in death by his wife, Doris Peterson; his parents, William and Marion Peterson; his sisters, Esther Reidner and Marrian Carter; his brothers, William Peterson and Carl Peterson; infant daughter, Becky Jo; and great-grandson, Jack Rahn.

A funeral service was held at Sun Prairie United Methodist Church, 702 North Street, Sun Prairie, on Tuesday, June 23, 2015, at 11:00 a.m. with Pastor Scott Carlson officiating. Burial followed at Roselawn Memorial Park in Monona. A visitation was held at church on Tuesday, June 23, 2015 from 9:30 a.m. until time of the service.

The family would like to give a special thanks to Dr. Greg Motl of Dean Medical Center, Agrace hospice, and many friends at Oakwood Village East and Sun Prairie United Methodist Church. Memorials may be made to Sun Prairie United Methodist Church.

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It Pays to Belong

How NSPS benefits members/ the profession:

Advocacy Program

- Political Action Committee (PAC)
- US Congress
- Federal Agencies
- Assistance on state specific matters (if requested)
- Other geospatial organizations
 - International Federation of Surveyors (FIG)
 - Coalition of Geospatial Organizations (COGO)

Education

- ABET-Lead Society for surveying/geomatics program evaluation for accreditation
- Scholarship Program – 15 annual awards

Licensing/Standards

- NCEES – Participating Organizations Liaisons Council (POLC)
- ALTA/ACSM Land Title Survey Requirements
- NSPS Model Standards

Outreach Opportunities

- Trig-Star
- Boys Scouts Surveying Merit Badge
- National Surveyors Week

Certification Programs

- Reduced rates for Certified Survey Technician Program
- Hydrographic Certification opportunities

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BOARD OF REGISTRATION FOR LAND SURVEYORS

MEETING HIGHLIGHTS - JULY 22, 2015

By Jacob T Hoffman, E.I, P.S.

The Board of Registration for Professional Surveyors (Board) met Friday, July 22, 2015, at 8:30 am EST. The meeting was held at the Indiana Government Center South, 402 W. Washington Street, Room W064, Indianapolis, Indiana. A motion was made by Mike DeBoy and seconded by John Stephens to appoint Gary Kent as the presiding officer for the meeting. The motion passed with a voice vote. A motion was made by Mike DeBoy and seconded by John Stephens to adopt the amended agenda. The motion passed with a voice vote. A motion was made by Mike DeBoy and seconded by Doug Lechner to adopt the minutes from the April 17, 2014 meeting. John Stephens abstained from voting because he did not attend the April 17 meeting. The motion passed with a voice vote.

Natalie Stidd, Deputy Attorney General, supplied the Board with a report of Consumer Complaints and Litigation Cases, but was unable to attend the meeting. It was reported that a new analyst will be working on the Board's cases. 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	20	6
2015	24	2	3
Complaints Currently Open as of July 22, 2015			23
Average Age of Open Complaints: 11.57 months			
Date of Oldest Open Complaints: December 18, 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	2
Cases Currently Open as of July 22, 2015			1
Average Age of Open Cases: 6.31 months			

(Continued on page 13)

(Continued from page 12)

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. Stephens reported that Mr. Sadlon was still performing surveyor location reports. Mr. Kent reported that Mr. Williams had not completed any surveys in the last quarter and that pursuant to the Board's agreement with him was not obligated to make an appearance at the meeting.

The Board held an administrative hearing for Michael P. Cochran (Cause No. SBRLS 15-01) in order to review Mr. Cochran's denial for application for registration as a Professional Surveyor. Mr. Cochran reported that he was a licensed surveyor in Illinois and that he had both a Bachelor's Degree and a Master's Degree. Mr. Cochran's application showed that he was two hours short of the required college courses specializing in Land Surveying despite covering all of the necessary course content. During the hearing it was discovered that Mr. Cochran had completed a three credit hour collegiate internship with a Land Surveying firm that was not counted towards his total course hours. A motion was made by Mr. Stephens and seconded by Mr. Lechner to accept the internship course credit as part of the required hours of Land Surveying courses. The motion passed with a voice vote.

(Continued on page 14)



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(Continued from page 13)

The Board held an administrative hearing for Kenneth Jason Graves (Cause No. SBRLS 15-5) in order to review the results of Mr. Graves's Indiana State Specific Examination. Mr. Graves questioned the answers of three of the examination questions. Mr. Graves's exam was pulled and it was found that he had answered one of the three questions correctly and the additional questions were found to have been correctly graded. There was discussion about providing applicants that do not pass the exam with a breakdown of the number of questions in each area of study that were answered incorrectly. A motion was made by Mr. DeBoy and seconded by Mr. Lechner to deny the petition. The motion passed with a voice vote.

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

Christopher T. Firof – Professional Surveyor by Comity
Michael G. Judt – Professional Surveyor
Ryan D. Perry – Professional Surveyor
Nathan J. Plooster – Professional Surveyor

The Board then turned their attention to the discussion items on the agenda. The Board reviewed an Indiana Professional Licensing Agency (IPLA) Resolution that granted the Executive Director of the IPLA, or their designee, the authority to sign documents on the Board's behalf when requested to do so by the Board. The Board accepted the resolution with a voice vote. The Board reviewed a letter submitted from NCEES that was passed to the Board from the Indiana Board of Professional Engineers. The letter detailed a change to NCEES model law as it pertains to Structural Engineers. The Board reviewed the Bachelor of Applied Science program in Geomatics at Great Basin College. A motion was made by Mr. Lechner and seconded by Mr. Stephens to designate the program as an approved surveying curriculum. The motion passed with a voice vote. The IPLA reported that there were 25 individuals that were chosen for the continuing education audit. All of the 25 individuals responded to the audit and 23 individuals submitted verification of compliance. One individual responded with a request for a hardship waiver and noted that he was 1.5 hours short of the requirement and had already taken additional hours of education in order to make up for the shortfall. A motion was made by Mr. DeBoy and seconded by Mr. Lechner to find him noncompliant with the continuing education requirements and issue a civil penalty of \$150. Another individual responded with additional hours that he would like to have applied to his total. The IPLA reported that they did not accept the additional hours and found that he was 12 hours short of the requirement. A motion was made by Mr. DeBoy and was seconded by Mr. Stephens to find him noncompliant with the continuing education requirements and issue a civil penalty of \$5,000. Mr. Kent gave an update concerning the Job Creation Committee's final report. The Professional Licensing Staff led a discussion concerning the application review process.

The meeting was adjourned at 12:12 pm.

The next scheduled meeting is Friday, October 2, 2015 at Indiana Government Center South, 402 W. Washington Street, Conference Room 1, Indianapolis, Indiana 46204.

Carlson Software Tip of the Day...

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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):

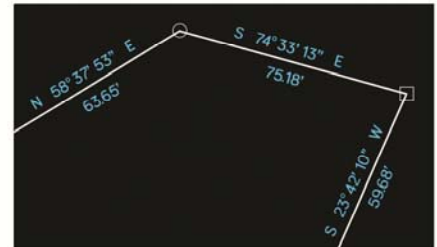


Image 1



Image 2

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TRIG-STAR PROGRAM – 2015

Report from Tony Gregory, PS, NSPS Trig-Star Coordinator – Indiana

The Trig-Star program in Indiana in 2015 included the test being given at 15 schools, and to 453 students. Four of the ten ISPLS chapters participated in the program. The Wabash Valley Chapter administered the test to 6 schools and 138 students; the Northwest Chapter to 5 schools and 222 students; the Southwest Chapter to 3 schools and 138 students; and the St. Joseph Valley Chapter to 1 school and 13 students.

The first place state winner was Jack Bao from Penn High School in Mishawaka, Indiana (St. Joseph Valley Chapter). Jack scored 100 points out of 100 points in 22 minutes and 30 seconds. He received a first place cash award of \$500 from ISPLS. Jack's math teacher was Mr. Brad Grounds, who received a \$300 cash award from ISPLS. As the state winner, Jack participated in the National Test, which is the second phase of the Trig-Star program.

The second place winner was Emily Harvath from Eastern High School in Greentown, Indiana (Wabash Valley Chapter). Emily scored 100 points out of 100 points in 40 minutes and 27 seconds. She received a second place cash award of \$300 from ISPLS. Emily's math teacher, Mr. Jim Vanmatre, received a \$200 cash award from ISPLS.

The third place winner was Felipe Caldeira of Highland High School in Highland, Indiana (Northwest Chapter). Felipe's test score was 100 points out of 100 points in 43 minutes and 27 seconds. ISPLS provided cash awards to Felipe, in the amount of \$150, and to his math teacher, Mr. Jim Hus, in the amount of \$100.

Local awards totaling \$1,200 in cash and gift cards were provided to individual school winners by the participating ISPLS chapters. Several land surveyors and technicians participated in administering the test within the four participating chapters.

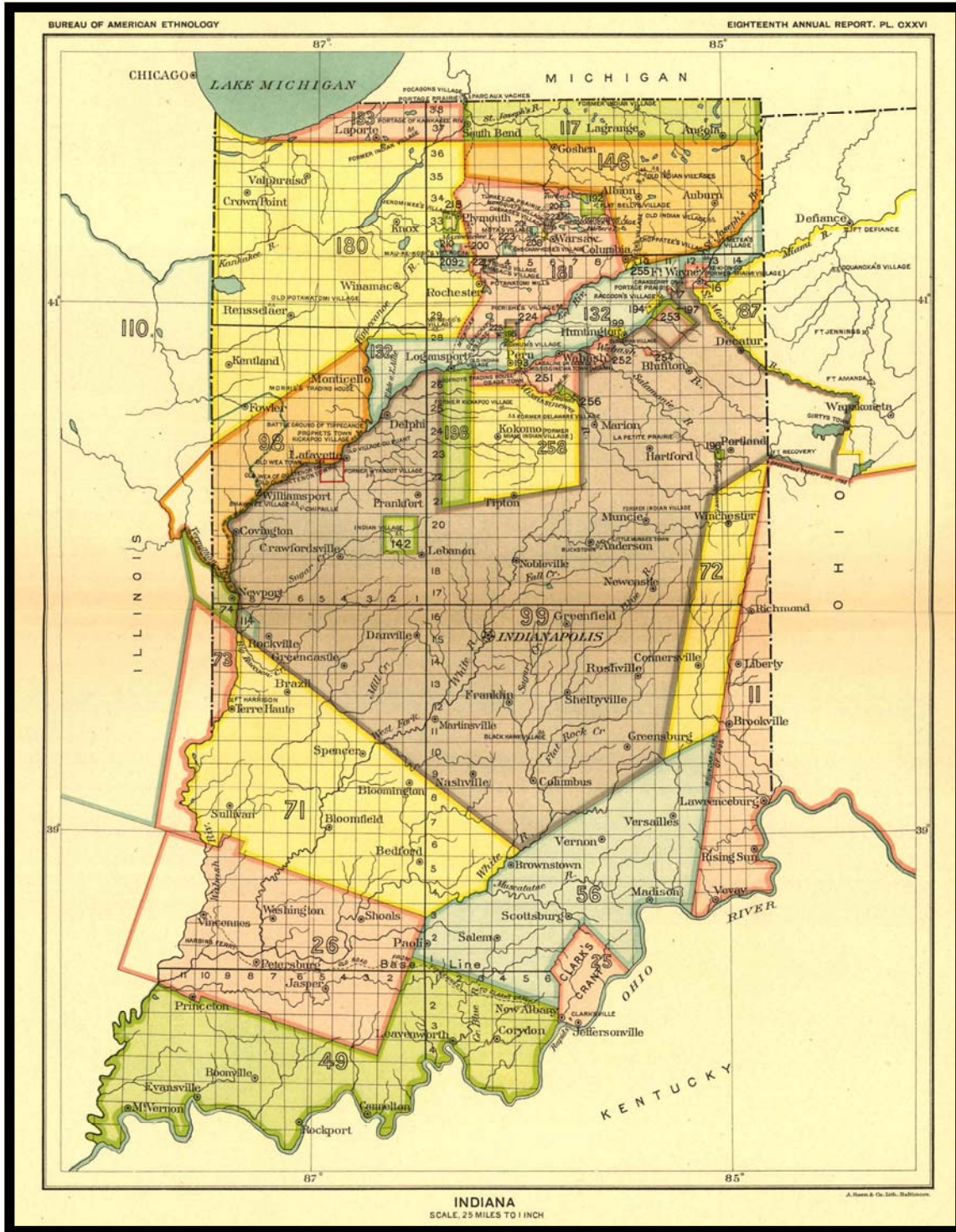
Despite a decline in participation in the Trig-Star program in Indiana over the last couple of years, the outlook for the program nationally is promising. Thirty-nine states participated in the program in 2014-2015, which is the most participation in several years. The NSPS Trig-Star committee has begun long-range planning to make the test more available to math teachers throughout the country, and to streamline the administration of the test.

The goal in Indiana remains that all ISPLS chapters will actively participate in the Trig-Star program. Information on the program can be found on the NSPS website, or by contacting Tony Gregory at gregorylandsurveying@comcast.net.

A MARVELOUS MAP

By Jim Swift

One thing most surveyors seem to have in common is a genuine interest in maps. Maps of all forms. Particularly maps of the geographic area in which they survey. We can't help it. We're map kind of people. Given the map friendly audience at the Hoosier Surveyor, I would like to introduce you to my favorite map.



(Continued on page 19)

(Continued from page 18)

Surveyors working in Indiana will recognize this as a map of the Public Land Survey System in Indiana. The 2nd principal Meridian is there along with the baseline, the correction lines and the six mile townships. The determined, purposeful grid within which we work. But the feature of the map which jumps out, color coded with big thick borders, are the treaty parcels, the defined parcels of land to which the U.S. government gained title from the native inhabitants prior to surveying. These parcels represent the basic, underlying framework of the PLSS and should command the attention of any surveyor working near their boundaries. Although the federal government made every effort to blend the parcel boundaries seamlessly into the township and section grid, they are actually hard, fundamental boundaries which may, or may not, introduce an angle point into a section line. The unsuspecting surveyor, if not aware of the presence of the nearby treaty boundary, may never guess this angle point exists.

The basic information presented on this map is also shown on other maps, and the true record of the location of the treaty boundaries is contained on the original township plats, with assistance from the original field notes. So why am I fascinated by this particular map? Honestly, it might be the colors. I confess that I find the pretty shaded parcels to be much more engaging and easier to process visually than a jumble of black and white lines. I'm not afraid to admit it, I think this map is pretty. Or it could be the fact that the treaty parcel commonly known as the Thorntown Reserve, located mostly in Boone County and shown here as a green square northwest of Lebanon, jumps right off the map. I work for the Boone County Surveyor. I am currently in the process of determining the exact boundaries of the Thorntown Reserve, a most interesting survey puzzle if ever I met one. Hence, I genuinely appreciate that this map makes the Thorntown Reserve so much more prominent than any other similar map I have seen.

But I am really drawn to this map for another reason. It is the numbers. Every parcel is denoted by a two or three digit number, such as the "99" prominently displayed above the word "Indianapolis." If one is interested in the history of Indiana, those numbers make this map a gold mine. They are the key to the actual treaties by which the U.S. Government gained title to the land from the native inhabitants. Better yet, those numbers provide a rich resource for the study of U.S. history in general, as this map is one of a series of 67 similar maps which show the treaty parcels across the U.S.A.

So who made this remarkable map and its 66 companion maps and how do they work? They are all the product of research by Charles C. Royce and are included in the *Eighteenth Annual Report of the Bureau of American Ethnology to the Secretary of the Smithsonian Institution, 1896-1897*, contained within U.S. Serial Set Number 4015, 56th U.S. Congress. They are federal publications commissioned by Congress. Each number, such as that "99" by Indianapolis, correlates to a chronological record in tabular data format, also included in U.S. Serial Set 4015, summarizing critical information about the relevant treaty. State, date, tribe, general land description, reserves and historical narrative are all contained in the table. If you are interested, please go to your favorite search engine and type "royce land cession maps." All will be revealed. But it gets better. Once you've found the summary, you can use the information about tribe and date to access the actual text of the treaties in a digital repository hosted by Oklahoma State University. The treaties can be interesting reading with their variously detailed land descriptions and promises of compensation, future rights and other matters which were all very important at the time.

Meanwhile, back to the map. What is it about the treaty parcels that are so interesting? There is, of course, the issue of the fact that they are true, although often subtle, boundaries within the PLSS. That should make them less than a mere curiosity to any surveyor. But there is more. There is the story they tell. The oddly shaped, generally non-cardinal orientation of the parcels speaks of the U.S. Government's determination to get title to whatever piece of land it could, whenever and however it could be arranged. And there is the story of the native tribes and their concept of land ownership. The story of where the different tribes were and when. The story of with whom the U.S. government negotiated, why a specific tribe was included in the negotiations and how they interacted with the other tribes. When reading that story, the state of Indiana is perhaps the most interesting state in the whole country. My research indicates that by the time William Henry Harrison was governor of this territory, charged with securing treaties to the land,

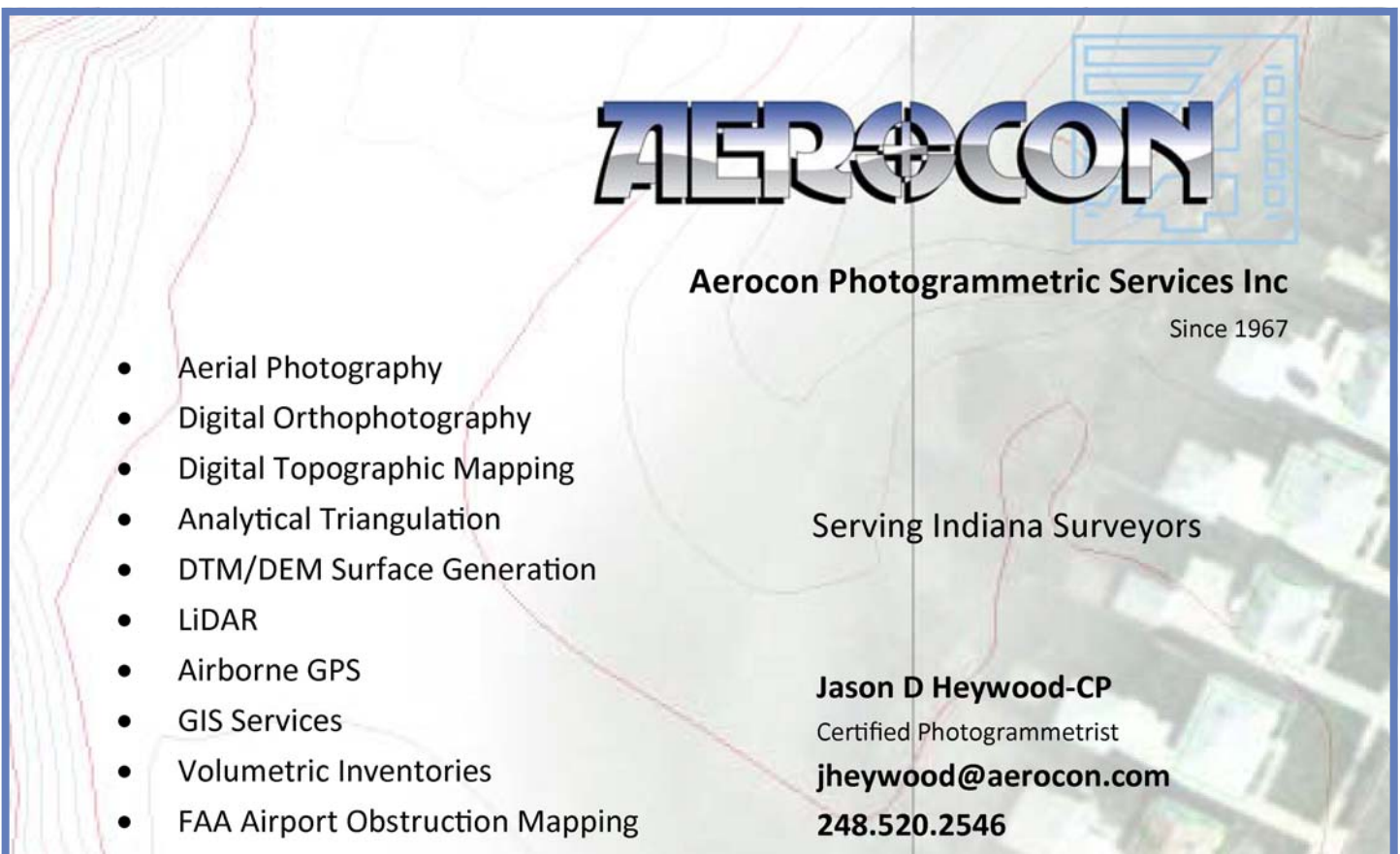
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the Indiana Territory had become a busy place. Numerous tribes were bunched up here, having already been displaced from elsewhere. Why were the Delaware hunting along the White River in east central Indiana when they were really the Lenape from New Jersey? Why do we hear so much about Chief Tecumseh and his brother the Prophet making such an impact in Indiana when they were Shawnee, originally from Ohio? This was traditionally the country of the Miami and their associated tribes. They were sharing their land with other tribes.

Ultimately, though, it is the Miami who most influence the map of Indiana. In part, perhaps, because they were the primary native inhabitants of the land, but more so because they were savvy negotiators. By the time the young state of Indiana had come into existence, the Miami had intermarried substantially with French fur traders. Rights in land? Sale of land to the U.S. government? The old story is that the native inhabitants had a different concept of land ownership than the European descendants and that they did not fare well in negotiations. That story is partially accurate but it does not take into account the influence of the French fur traders on the Miami. Led by their French descendant chiefs, the Miami were excellent negotiators who fully comprehended the value of the land they inhabited. That comprehension and the resulting negotiations significantly influence how this map turned out and in turn influence the history of Indiana. The Thorntown Reserve? That was the Eel River tribe of the Miami. Parcels 198 and 258, the Great Miami Reserve? Yep. In negotiating the New Purchase (number 99), the U.S. government wanted all of the land south and east of the Wabash River. The huge piece of land around Kokomo represents some tough negotiations on the part of the Miami Chiefs. It also radically influenced the direction of U.S. Highway 421, Michigan Road, as it leaves Indianapolis, but that is another story. And just look at the land in the northeastern part of the state. Talk about negotiations and treaty boundaries. Wow! Still, I think the nice square Thorntown Reserve is interesting.

Jim Swift is a Professional Surveyor employed by the Boone County, Indiana, Surveyor's Office. He holds a Bachelor of Arts degree in History from St. Olaf College in Northfield, Minnesota, and a Master of Science degree in Geomatics from the School of Civil Engineering, Purdue University, West Lafayette, Indiana. Jim's current project and professional passion is finding the section corner stones of Boone County.



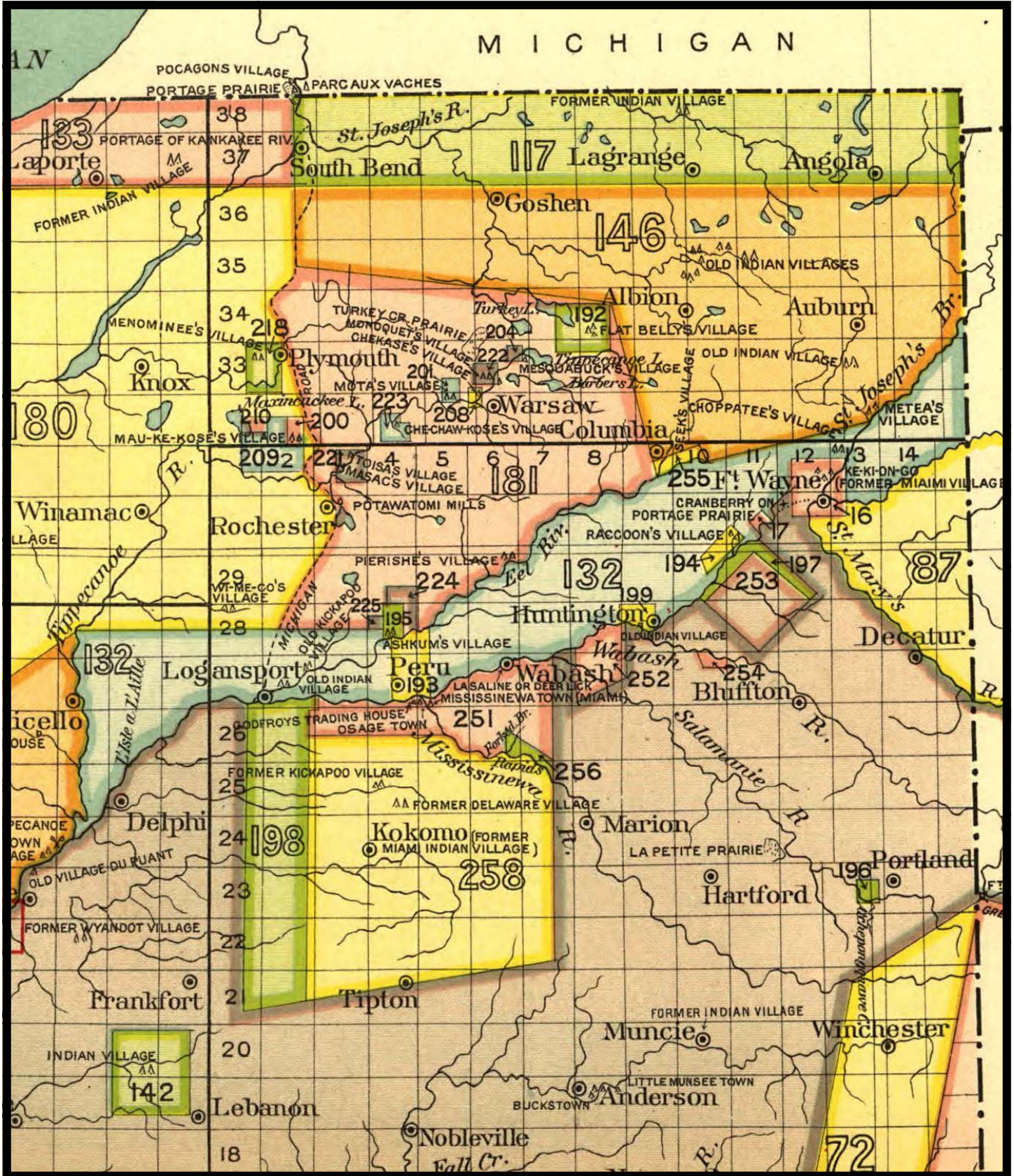
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INDIANA PROFESSIONAL LAND SURVEYORS FOUNDATION, INC.

Report from Perry Cloyd to the ISPLS Membership - June 1, 2015

Both ISPLS and IPLSF are service organizations created for your representation and the advancement of the profession. With that in mind I want to ask some questions of the membership:

1. If you were an absolute dictator of the surveying profession, what 5 things would you do to improve the profession and secure its future?
2. What one thing do you think this generation of surveyors should leave behind for future generations?
3. What one thing/service/benefit would be most important to you as a surveyor, to your employer or to your business?



Since the June 1, 2015 Report, the IPLS Foundation BOD has met on two occasions [June 8 and July 20] and while summertime has slowed the docket, there are several items that have been before the Board:

I. Scholarships:

- a. Open/statewide scholarship has been created and will be available in 2016.
- b. What is a survey related program - Application contains the definition of Surveying or Survey related curriculum.
- c. Scholarship amount? This amount will be set budget by budget.
- d. Scholarship committee will be charged with advertising the Scholarship and to research Schlorship.com and Surveyor.com.
- e. The foundation has been discussing naming the scholarship, and ideas will be requested from the general membership. Some ideas presented at the meeting: "Trail Blazer Scholarship" , "Bearing Tree Scholarship" . The name of the scholarship needs to be decided by the September meeting. We suggest keeping the scholarship name simple.
- f. There was additional discussion around adding recognition of individual(s) to the scholarship name. "Trail Blazer Scholarship" in honor of.....". this could either be a permanent name or could be changed annually as needed.

II. Financial Partnering and Fund Raising Ideas: The foundation board continues to research opportunities to make the services of the surveyor better known to the general public. Please "stand by" as we continue to solicit such opportunities

III. Grants: While none of these have been officially submitted, the foundation routinely discusses issues such as these to gain understanding of potential opportunities. Grant applications can be obtained on the ISPLS Website under the Foundation tab.

IV. The IPLSF Raffle: 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. These raffle items were discussed for the next convention: 12 gauge over/under and/or deer hunting rifle, unmanned aerial vehicle (UAV), iWatch, iPad, Go Pro, split bamboo fly rod w/ manual fly reel, Crossbow, Last chance prize could be Visa Gift cards from Cabala's, Dick's, Gander Mountain, and State Park Pass (\$40). All of the tickets will be in one drum. These items are to be finalized by the October meeting.

V. 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 chapters for their consideration. Looking at having a presentation in to the CIC Chapter in November. Hoosier Hills Chapter of ISPLS has agreed to participate. The MOU needs to be signed in August. They should be fully vested by October 1.

(Continued on page 23)

(Continued from page 22)

VI. Budget: The proposed Budget for 2015/16 was presented, reviewed and approved. According to the Spending Plan of IPLSF, the Administrative Expenses will reflect a 1% expense, and under Business Expense this will show a 4% expense to match the 5% from the Spending Plan. This spending plan was modeled after successful foundations to allow expenditures and growth.

VII. Calendar dates to consider:

- February meeting will be a recap of the convention and the start of the year.
- April meeting to announce any scholarships winners.
- June meeting to set the Budget.
- October meeting to set raffle items and announcing any interest for the nomination of Directors for ISPLS.

VIII. Foundation board liability insurance: We are completing an application for both ISPLS and IPLSF.

IX. Logos have been purchased so we can start using them on our letterhead.

X. The foundation will be looking for board members to recommend to ISPLS for approval. If you have an interest in serving please let our Executive Director know.

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

The next Foundation meeting will be held Monday evening, September 14' at Banning Engineering.

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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.

Pamela Frazee v. Douglas J. Skees and Angela D. Skees, Indiana Court of Appeals Case No. 79A04-1406-PL-269, April 21, 2015

I only mention this case from the Tippecanoe Superior Court since it involves a mutual drain, sewage flowing through it, a septic system in a wet area and alleged criminal trespass. If your practice includes finding remedies for such situations you may want to read the full summary of the appeal. One item worth mentioning is that repair costs of a broken or obstructed mutual drain are the obligation of the owner of the property where they occur under IC 36-9-27.

William Arnold Henry and Mary Ann Henry v. Margo Liebner, Indiana Court of Appeals Case No. 09A02-1401-PL-53 April 30, 2015

Here is another case that helps identify how *Fraley v. Minger* is applied in practice. Here the owners of 160 acres sold off a northern portion of the property on June 8, 1990 after having two surveys prepared. The first survey on May 16, 1990 did not include a triangular area of 1.786 acres southwest of and including a fence and creek, and a second survey on June 5, 1990 did include the triangular area. On June 8, 1990 a 33.140 acre tract was sold by the description that included the triangular area. However, the triangular area was cut off from the rest of the 33.140 acres by a fence and creek and did not have road access. From 1990 until the fall of 2011, the triangular area was farmed, and rents, etc. were paid to the owner of the original 160 acres and succeeding owners. No monies were paid to the various owners of the parcel sold in 1990. In addition there was an auction in 2004 which included a property location map which showed the triangular parcel as a part of the remaining 128.86 acre parcel of land to which Liebner received a Trustee's Deed on March 15, 2004. On May 16, 2011 the Henrys received a quitclaim deed for 21.861 acres which included the disputed area and later that year claimed ownership.

This ended up in the Cass Superior Court where claims of adverse possession and slander of title, etc. were made. During the trial, several people, including a former owner of the Henry parcel and the current farmer renting the Liebner property testified that they thought Liebner (or a prior owner of the southern property) owned the triangular area. A Cass County Deputy Assessor also testified that Liebner was being assessed for a "Legal Ditch" while the Henrys were not. After a bench trial on November 18, 2013, the trial court determined that the Henrys did not have ownership or title to the triangular area. The court also ruled that Liebner did not have title but that one of the prior owners of her property did.

On appeal, the court agreed that the Henrys did not have title but found that Liebner did. The judges noted that Liebner thought she owned the parcel and thought that her tax bill included the disputed area but that no evidence had been presented about payment of taxes between 1990 and 2000. But in this case, because Liebner's property tax statement included a drainage assessment and a prior owner of the Henry's parcel thought it was owned by the southern adjoiner and also thought that adjoiner was paying taxes on the triangular area, there was enough evidence entered to determine that Liebner had established title by adverse possession. In this appeal, the payment of property taxes was the main element of adverse possession being challenged, so the case was remanded back to Cass County with instructions to make that finding.

(Continued on page 26)

(Continued from page 25)

Fight Against Brownsburg Annexation, et al. v. Town of Brownsburg, Indiana, et al., Indiana Court of Appeals Case No. 32A01-1407-PL-300, May 15, 2015

Here the Town Council of Brownsburg proposed to annex 1193 parcels on 4461 acres north of town. A group called Fight Against Brownsburg Annexation (FABA) formed and started collecting signatures on petitions to oppose annexation. On July 11, 2013 the Town Council adopted the annexation ordinance. On October 7, 2013 FABA remonstrated and petitioned for a declaratory judgment in the Hendricks Superior Court. The remonstrance included the signatures of the owners of 808 of the 1193 parcels, approximately 67% of the owners.

Brownsburg moved to dismiss, arguing that FABA had to obtain the signature of each co-owner of a parcel and that some of the signatures were obtained before the adoption of the final ordinance. After a hearing the trial court dismissed the petition for lack of subject matter jurisdiction.

On appeal, the court found that the court erred in dismissing the petition since Indiana Code 36-4-3-11 only requires one owner of each parcel to sign a petition, does not require the signatures to be obtained during a specific period, and does not require the ordinance to be attached to the petition until it is filed. In addition, the statute requires only 65% of landowners (or owners of more than 75% of the land) to file an appeal with the circuit or superior court of the county. Enough owners did sign petitions, and the Hendricks Superior Court did have jurisdiction because of that fact. The trial court dismissal was reversed and the case remanded back for a hearing on the merits of the case.

Terry Huber v. Roger Hamilton, Indiana Court of Appeals Case No. 54A01-1404-PL-154, May 28, 2015

On November 15, 2007 Roger Hamilton sold commercial real estate to Terry Huber under a contract that specified payment terms with a final balloon payment on November 30, 2010. As the date of the balloon payment neared, Huber and Hamilton agreed to modify the terms but did not put the modification in writing. Huber continued making monthly payments, including an extra \$300 per month (which was either a penalty or to apply to the principal, depending on who you believe), until September 2013. In August 2013 Hamilton's attorney sent Huber a notice of default and demanded the contract be paid off. This ended up in the Montgomery Circuit Court where both parties had different accounts of the terms of the contract modification. The judge decided neither party had convincing evidence of the modification made to the contract, and it was therefore unenforceable under the Statute of Frauds. The judge found that Huber was in default of the written contract, the extra \$300 per month reduced the principal, Hamilton was entitled to \$83,477.20 plus \$4075 in attorney fees, the written contract should be foreclosed, and the property sold at a Sheriff's sale.

The parties appealed, Huber arguing that the Statute of Frauds does not apply and that he should not have to pay attorney fees (which were in the original contract) and Hamilton arguing the 34 extra payments of \$300 are a penalty to be forfeited (and not used to reduce the principal he is owed). The Appeals Court unanimously upheld the trial court decision.

Town of Zionsville, Indiana v. Town of Whitestown, Indiana, and Angel Badillo, Indiana Court of Appeals Case No. 06A01-1410-PL-432, June 2, 2015

This is a case from the Boone Superior Court where Zionsville is attempting to leap-frog Whitestown and annex land not contiguous with the existing Zionsville town boundary. Here Zionsville had reorganized with Eagle and Union Townships in 2010 to provide all township governmental functions. In 2013, Whitestown adopted a resolution to annex part of Perry Township for a planned Waste Water Treatment Plant. A remonstrance was filed which is currently pending before the Court of Appeals. On April 18, 2014, Perry Township adopted a resolution to consider reorganizing with Zionsville. A portion of Perry Township is contiguous to Eagle Township, but Whitestown's boundaries included

(Continued on page 27)

(Continued from page 26)

the portion of Eagle Township adjacent to Perry Township. On April 21, 2014, Zionsville adopted a similar resolution. On April 22, 2014, Whitestown introduced four annexation resolutions for property in Perry Township and part of Eagle Township that Zionsville had not annexed into the town. On May 20, 2014, Zionsville and Perry Township adopted identical reorganization plans whereby Zionsville would provide all township services and all land in Perry Township, but outside Whitestown as well parts of Eagle Township, including the 2013 annexation area, would be incorporated into Zionsville. None of Perry Township is physically adjacent to the Zionsville boundary as altered in 2010, although Zionsville had been providing township governmental functions to the portion of Whitestown in Eagle Township. Whitestown filed suit challenging the validity of the 2014 plan, and the case went to court where summary judgment was granted in favor of Whitestown.

On appeal, the effect of the Indiana Government Modernization Act of 2006 (IC 36-1.5-1-1 *et seq.*) as it affected several questions brought forward was considered for the first time. In brief, because the legislature's specific intent was to allow many new forms of merged government and specified that many conflicting statutes would be overridden by the Act of 2006, the Appeals Court reversed the judgment of the trial court and remanded the case back to them with instructions to enter judgments in favor of Zionsville, except in the case of the area Whitestown had proposed annexing in 2013.

As part of this case, Zionsville claimed that it currently has the status of a hybrid town/township with the powers of both under the Act of 2006, and the court agreed. Whitestown has announced it plans to appeal this ruling, so there is a good chance there will be more news about this case in the future.

Tom Bonnell v. Ruby A. Cotner, Douglas Wayne Cotner, Arthur J. Johnson, Jimmy J. Johnson, and Jerry L. Johnson, Indiana Court of Appeals Case No. 66A03-1410-PL-372, June 4, 2015

Here Parcels 3 through 11 of the Cottingham subdivision in Pulaski County share State Highway 19 as their western boundary. About 35 feet east of their eastern boundaries is a north-south "ancient farm fence" which the owners of these lots believed to be their eastern boundaries. The total area between these lots and the fence is about 0.75 acres. In 1968 the owners of Parcel 8 built an outbuilding which was at least partly in the 35 foot strip. In 2010, they extended the building such that it was about 22 feet past their eastern boundary. In 1993 the Pulaski County Auditor issued a tax sale deed to the 0.75 acres to a third party. On October 4, 2011, the Pulaski County Auditor again put the 0.75 acres up for tax sale, and the Pulaski County Board of Commissioners obtained a tax sale certificate. The Board later petitioned the Pulaski Circuit Court for a tax sale deed, which they received. On January 10, 2012 the Board conveyed the 0.75 acres to Bonnell by quitclaim deed. Bonnell had the land surveyed and discovered that the land was west of the fence, instead of east as he had believed, as well as the building encroachment. Bonnell contacted the owners of Parcel 3 through 11, offering to divide the property and sell them the portion between their parcel and the fence. All owners except the owners of Parcels 8 and 9 (the parties to this suit) accepted this offer while the plaintiffs filed suit claiming title by adverse possession. Bonnell counterclaimed for ejectment.

On November 1, 2013 the Pulaski Circuit Court held a bench trial. On September 26, 2014 the court entered findings which noted that the plaintiffs had used, possessed and controlled their parcels as well as the adjoining portion of the 35 foot strip; that such use was open, public and exclusive (until Bonnell came on the scene); that they had built fences, outbuildings and other structures in the strip; that they had paid all real estate taxes on their parcels; and that they did not pay real estate taxes on any portion of the 35 foot strip. The court also concluded that they could not have in good faith reasonably believed they had paid a portion of the real estate taxes on the 35 foot strip since it had two occasions been put up for tax sale, and they had not attempted to redeem or acquire the 35 foot strip. The court did grant a prescriptive easement for the portion of the 35 foot strip occupied by the building and an additional four feet around the perimeter for maintenance and access.

(Continued on page 28)

(Continued from page 27)

Bonnell appealed the prescriptive easement, and a cross-appeal was made about the denial of title by adverse possession. The Appeals Court noted there was no dispute that the four elements of adverse possession described in *Fraley v. Minger*; control, intent, notice and duration had been satisfied and that taxes had been paid for the subdivision parcels. However, prior court cases have held that the “usually sketchy and inaccurate” descriptions on tax duplicates do not provide clear notice of property boundaries. And since only record title holders receive personal notice of a tax sale, adverse owners can reasonably believe they are paying taxes on a parcel. Here title vested with the lot owners in 1978, before the tax sales. The trial court’s interpretation of law would allow adverse holders to lose title for failing to pay property taxes even when they reasonably believe in good faith they are. Therefore the judgment of the trial court was reversed and the case was remanded with instructions to enter judgment for the lot owners.

Michael R. Bixeman and Doreen Bixeman, v. Hunter’s Run Homeowners Association of St. John, Inc., Indiana Court of Appeals Case No. 45A03-1411-PL-406, June 11, 2015

The Appeals Court has previously noted that restrictive covenants are allowed under Indiana law, but they are disfavored and will not be enforced if adverse to public policy. This seems to be why selective enforcement can invalidate them entirely. Here is another way they can fail.

The Bixemans own a residence in Hunter’s Run Subdivision subject to a Declaration of Covenants, Conditions, Restrictions and Easements (Declaration). The Declaration requires owners who rent a residence to provide a written lease to the homeowners association at least 15 days prior to the effective date of the lease. The initial lease term must be for at least six months and for not less than thirty days thereafter. In addition the lease must contain a clause obligating the tenant to acknowledge receipt of the Declaration. In 2012, the Bixemans moved to Iowa and later that year leased their residence. The lease did not contain a clause about receipt of the Declaration and was not provided to the homeowners association 15 days before it went into effect. The Declaration also specifies required procedures before any sanction can be imposed. The Bixemans were notified that a hearing would be held in seven days, not the required minimum of ten days per the Declaration. The Bixemans were unable to travel from Iowa for the hearing and were not allowed to appear by telephone. No decision was made at the hearing and the Bixemans were requested to submit evidence in writing. The homeowners association did not receive a response they considered adequate and imposed a \$250 sanction which the Bixemans did not pay. The homeowners association then placed a lien for \$2,525.00 on the property.

At some point the Bixeman’s attorney notified the homeowners association that the lien was invalid, but they refused to release the lien. The Bixemans sued for release of the lien, and the homeowners association counter-sued to enforce and foreclose the lien. The Bixemans asked for summary judgment to find the lien invalid and a slander to their title and in their favor on all issues. The homeowners association moved for declaratory judgment and foreclosure of the lien. The Lake Superior Court ordered the Bixemans to pay the \$250 and the homeowners association to release the invalid lien. The court declared that the slander of title issue was moot after declaring the lien invalid. The Bixemans filed a motion to correct error and the order to pay the \$250 sanction was reversed, but the court stood by its decision as to the slander of title. The Bixemans appealed the ruling that the slander of title issue was moot, and the homeowners association cross-appealed the determination that the sanction was invalid.

The appeals court agreed the sanction was invalid since the homeowners association did not follow procedures per the Declaration which is tantamount to a contract. Not following due process and “substantial compliance” with the Declaration is not allowed if penalties under the Declaration are to be valid. The court noted that the refusal to release the lien after the Bixeman’s attorney notified them it was invalid was malicious, that the Bixemans had to pay their attorney to clear this up and were unable to market their property; all elements of slander of title. In addition, simply maliciously asserting a lien is slander of title. The appeals court directed the trial court to enter summary judgment for the Bixemans on the slander of title claim and determine any damages the slander caused and to enter findings about whether the Bixemans are entitled to attorney fees.

(Continued on page 29)

(Continued from page 28)

Harry J. Evans, et al., v. Tommy L. Short, Indiana Court of Appeals Case No. 79A02-1409-PL-627, April 16, 2015 - MEMORANDUM DECISION - not regarded as precedent

This case from the Tippecanoe Superior Court concerns adverse possession and trespass over a “Limited Disputed Area” adjoining a gravel drive which evidently occupies an easement mentioned in the various deeds of the parties to this case. However, the case information on the Appeals Court website does not contain details about the easement or a survey that is hinted at. It does make the point that placing poles and rocks to deny access to an area and calling law enforcement when someone drove into the area anyway is evidence of absolute denial of access. The fact that someone chose not to heed a denial does not mean it wasn’t a denial.

This case also made the point that one could likely assume the area in question is the curtilage to the Short residence. Therefore it follows that it is reasonable to assume ownership and that tax payments had been made.

J. Richard Presser, Rachel E. Presser, Kevin Kelley, Richard Sanderson, Rosemary Sanderson, Thomas Reis and Mary Reis, v. North Indiana Annual Conference of the United Methodist Church, et al., Indiana Court of Appeals Case No. 43A04-1405-CP-215, May 27, 2015 - MEMORANDUM DECISION - not regarded as precedent

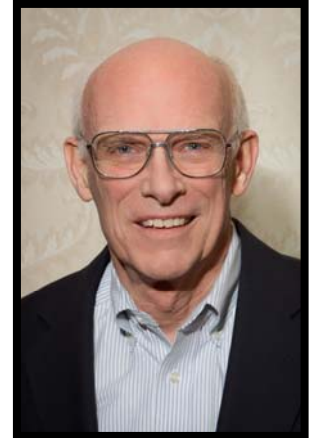
This case centers on whether an easement created by the 1923 plat of Epworth Forest, which contains 426 lots, some of which lie along the shoreline of Webster Lake, is an appurtenant easement (which attaches to the land and transfers with it) or an easement in gross (a personal right which cannot be transferred). Interestingly, the same Kosciusko Circuit Court held a three week trial in 1994 which included this issue, at least somewhat. The 1994 judgment required the North Indiana Annual Conference of the United Methodist Church (Conference) to oversee and regulate the installation of docks and piers on the easement without specifying whether it was an easement in gross or an easement appurtenant. In 2011 the Conference filed a motion for relief claiming portions of the 1994 judgment were no longer equitable to the Conference. The trial court held that the easement was an appurtenant easement. The lakefront owners, as might be expected, appealed. The appeals court noted the extensive findings of the court from 1994 as well as “an easement is never presumed to be in gross when it can be fairly construed to be appurtenant to the land” as it affirmed the trial court.

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

The Indiana-Michigan Boundary Line Commission met Tuesday, May 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, Indiana; David Mostrom, vice-chairman, Michigan; Anthony Hendricks and Rex Pranger, Indiana; and John Kamer and Chris Marbach, Michigan. Those not present were Brad Cramer and Michael Ruff, Indiana; and Edward Reed and Michael Lodzinski, Michigan. The May 12 meeting agenda and the minutes from the Jan. 13 meeting were approved.



Chris Beland, director of the state of Michigan's Office of Land Survey and Remonumentation, said he had received no response from Michigan officials regarding the advancement of a Request for Proposal for the Boundary Line Retracement and Remonumentation Project. He said the reason was that Indiana did not budget additional funds for the project during the 2015 legislative session, and funds already appropriated would revert back to Indiana's general fund.

The additional funds were needed because each state's legislature had approved sharing the cost of the project and initially appropriated \$200,000 apiece. Michigan set a cap of \$500,000 on its share of the project — and with Indiana's match, that would have limited the total cost to \$1 million.

However, after subsequent estimates indicated the project could cost up to \$2 million, the commission sent letters in August 2014 to officials in both states, asking that the legislatures increase their funding to \$1 million apiece. The request was not sent in time to be introduced in Michigan's 2014 session, and Indiana legislators took no action on it during the session that ended in April 2015.

Beland reiterated that Michigan would not approve contracts for the project unless funding existed to complete it.

After the commission discussed alternatives, Hendricks asked if a county did its own request for the work using its own funds, it could submit its lines to the commission for approval. Beland said he wasn't aware of anything that would prevent that — and that if Indiana counties wanted to coordinate with adjacent Michigan counties, they could try.

Hendricks said Indiana's LaPorte County could have prices on a request for proposal in 45 days, and the commission could then meet in two months to discuss costs. He said the expense would be paid from the county's Section Corner Perpetuation Fund. McNamara said he would be willing to do the same in Indiana's St. Joseph County if money is available.

Hendricks suggested starting a pilot program in LaPorte and St. Joseph counties and then asking Indiana's legislature to appropriate funding for the entire project. He said the legislature might be more receptive to finishing the project if it had a better idea of the total cost — and the request for proposal could include a stipulation that if Indiana would not appropriate the money, another funding source would have to be found.

Meetings were also scheduled Aug. 11 and Nov. 10, both in the County City Building in South Bend.



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Promoting the Profession – Why not Tractor Pulls and Pancakes?

By Glen Boren, PS

In the ongoing effort to constantly try and educate or in some cases introduce the public to what land surveyors do, members of the Northwest Chapter have been taking advantage of unique opportunities this year to promote the Profession.

On July 10, 11 and 12, 2015, members of the Northwest Chapter participated and hosted a demonstration area at the South Lake County Agricultural Historical Society, Inc.'s 31st Annual Antique Tractor and Farm Show at the Lake County Fairgrounds in Crown Point, Indiana. The big Saturday night draw is the antique tractor pull in the fairgrounds arena. Each year, the official length of the longest pull was measured by volunteers of the show using a 100-foot tape generally through the mud. It took time, especially if they went over 100 feet. They also couldn't prep the track area for the next contestant until the official measurement was complete and the tape removed. Northwest Chapter member Tony Kollak volunteers with the event every year and saw an opportunity for the Profession. Tony asked the organizers if Professional Surveyors could provide the measuring services during the event in exchange for a booth or demonstration area.



The event organizers agreed and Joel Janowski, Frank Walsko, and Raiford Putnam worked the event showcasing equipment old and new, various literature, and giving their time to talk to anyone that would listen as they passed by. All of the equipment and items on display were generously donated for display by the Lake County Surveyor's Office, Traverse Land Surveying, Torrenga Surveying, and Rich Hudson Land Surveying. On the night of the tractor pull event, Raiford and Frank utilized a total station, a pair of radios, and the pre-measured coordinates of the starting line to quickly relate the results for each pull to the judges. The judges were so grateful for the increased speed and smoothness of the event, that after every five or six announced pull results, they would ask the crowd to applaud the surveyors. Immediately following the event, the Chapter was asked to participate again next year. On July 27, the event organizers voted on and approved giving a \$200 award to the Chapter's Ordell L. Gertzmeier Scholarship fund to show their appreciation.



(Continued on page 33)

(Continued from page 32)



On April 1, 2015 several Chapter members began receiving calls from the Lowell Lions Club requesting the presence of a Professional Land Surveyor to officiate a pancake breakfast. The Club was attempting to break a Guinness World Record for the tallest stack of pancakes. This request was brought before the Chapter and seeing the opportunity, the Lake County Surveyor's office agreed to provide equipment and volunteers to officiate the event. On April 11, 2015, Joel Janowski, Jay Lopez, Russell (Waid) Dillon, and Lake County Surveyor Bill Emerson, Jr. officiated the attempt to break the record of 35.9 inches

diameter and no thicker than 0.39 inches (1 cm) each. The stack could have no internal or external supporting structures (glued or strung together) and had to stand for at least 5 seconds after the final pancake was placed.

A stack of 140 pancakes that measured 36 inches was achieved, but did not free stand long enough to qualify for the record. The organizers and participants of the event were very grateful and a newspaper article highlighting the event mentioning surveyors' involvement was published in the *Times* on Sunday, April 12, 2015.

These are two examples where an opportunity was recognized and acted upon to promote the Profession in two very unconventional ways. I encourage each of you to keep looking for that next "Tractor Pull" or "Pancake" opportunity, as you never know where you may find it.



INDIANA'S JOB CREATION COMMITTEE

A Report by R. Jason Coyle, PS, ISPLS Executive Director

I have had several inquiries as to Indiana's Job Creation Committee (JCC) and the recommendations they put forth concerning Professional Surveyors. For those not familiar with the JCC and their responsibilities – here is a quick explanation.

The Jobs Creation Committee (JCC) was established by the Indiana General Assembly in 2014 to assess the efficiency and effectiveness of all professional licenses regulated by the Indiana Professional Licensing Agency (IPLA).

The IPLA is an umbrella agency for 38 boards, commissions and committees, including licensing bodies such as the Medical Licensing Board and the Indiana Real Estate Commission. IPLA's boards regulate over 70 professional licenses that includes but is not limited to physicians, real estate brokers, pharmacists, nurses, accountants, dentists, cosmetologists, veterinarians and engineers. The boards are also responsible for temporary and intern permits related to the respective professions each board regulates. In addition to professional regulation, some boards are also responsible for regulating businesses, such as the Indiana Board of Pharmacy, which licenses wholesale drugs distributors, pharmacies and home medical equipment providers. From pharmacist interns to journeyman plumbers to limited temporary chiropractor licenses, IPLA and its boards are responsible for the regulation of over 200 unique permits that are required for a person to work in Indiana. Consequently, IPLA regulates approximately 490,000 actively licensed professionals, meaning almost one in seven working Hoosiers are licensed by the agency. In looking at all of the agencies that regulate professions, 1 in 4 Hoosiers must be licensed to go to work every day.

(Continued on page 35)

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(Continued from page 34)

The JCC is chaired by IPLA's Executive Director, Nicholas Rhoad, with other members of the committee being: Joseph Habig from the Office of Management and Budget, Allen Pope from the Attorney General's Office (nonvoting member), Barbara Quandt with NFIB (nonvoting member), Dr. Matthew Will (consumer member), Timothy Reed (representative from licensed field), Col. Richard Wilson (consumer member) and John Wright (representative from licensed field).

The JCC is tasked with issuing reports to the Governor and the Legislative Services Agency on each regulated occupation and board over the next five years. The report must contain the following as set forth in IC 25-1-16-8:

1. The number of individuals who are licensed in the regulated occupation.
2. A summary of the board's functions and actions.
3. The budget and other fiscal factors of regulating the regulated occupation, including the actual cost of administering license applications, renewals, and issuing licenses.
4. An assessment of the effect of the regulated occupation on the state's economy, including consumers and businesses.
5. Any recommendations for legislation, including whether:
 - a. the regulation of a regulated occupation should be modified;
 - b. the board should be combined with another board; or
 - c. whether the board or the regulation of the regulated occupation should be terminated;
 - d. whether a license should be eliminated; or
 - e. whether multiple licenses should be consolidated into a single license.
6. Any recommendations for administrative changes.

The JCC invited ISPLS to participate in their January 15, 2015 meeting to give a report of the surveying profession. A written report was prepared with the help of Todd Bauer, Gary Kent and countless other ISPLS Board Members and was provided to the JCC. A copy of the written report can be found at the following link:

https://c.ymcdn.com/sites/ispls.site-ym.com/resource/resmgr/Legislative/JCC_-_ISPLS_Report_20150112.pdf

Todd Bauer and I presented the written report to the JCC at their January 15, 2015 meeting, highlighted many aspects of the report and answered additional questions from the committee. Gary Kent was also in attendance for the meeting. Todd, Gary and I left the meeting feeling as if it went very well and that the committee understood the importance of the surveying profession. As we left, our only concerns were 1) that they would try to combine the Boards of Registration for Surveyors, Engineers and Architects; and 2) that they would recommend that the educational and work experience needed to become licensed be reduced.

Minutes from the January 15, 2015 JCC Meeting can be read at the following link:

http://www.in.gov/pla/files/JCC_Meeting_Minutes_1.15.15.pdf

I also attended the following JCC meeting held on February 19, 2015 as I was under the impression that they would openly discuss their findings and opinions from the previous meeting with the Surveyors and Engineers. It was only after asking the Chairman if they would be discussing the previous meeting did they do so. Those remarks are noted in the February 19, 2015 JCC Meeting Minutes. You can read those minutes at the following link:

http://www.in.gov/pla/files/JCC_Meeting_Minutes_2_19_15.pdf

(Continued on page 36)

(Continued from page 35)

I would have you pay close attention to the recommendation from the committee during this meeting – see pages 8-9 of the meeting minutes. There was not the first mention of eliminating the Professional Surveyor's license or doing away with the Board of Registration.

Fast forward to June 2, 2015, the JCC met again to recap the assessments of the reviewed professions and firm up the recommendations for the July 1, 2015 report. Below is the text from the meeting minutes concerning surveyors:

Mr. Rhoad felt that there is redundancy in this field. He explained that this profession has firm licenses, intern licenses, continuing education provider licenses, and corporate licenses. He believes that the IPLA should be careful to wade into the education licensing business. Mr. Pope said that the AG's office does not typically receive complaints for continuing education providers. Col. Wilson expressed concerns with the people providing the education who might have direct connections with the actual trade organization, so the level of transparency concerns him. He explained that he is not attacking training or professional development; he would just like to ensure that the licensed CE providers are not in cahoots with trade organizations or any other behavior that might take advantage of trainees. Mr. Pope explained that sometimes he sees other schools accepting students who are not capable of finishing the program just so they can collect the federal/state education grants. He believes that licensing CE providers were probably initially established as a consumer protection issue.

Once again there is no mention of eliminating the Professional Surveyor's license or doing away with the Board of Registration. However, a few weeks later, a Draft of the Annual Report of Recommendations for the Professional Licensing Agency's Occupational Licensing Boards was issued during the June 17, 2015 Meeting of the JCC. Said draft report contained the following recommendation for the Professional Surveyors:

This is the Job Creation Committee's policy statement for the State Board of Registration for Professional Surveyors and the regulation of the surveyor field:

The Job Creation Committee recommends that the State no longer license surveyors and to eliminate the State Board of Registration for Professional Surveyors. There is very little established harm to consumers that has been documented under this profession. With additions of new technology, the risk to consumers will continue to decrease.

The Committee does see this profession as a good candidate for the self-certification registry should the Legislature remove the need for licensure.

After attending the meetings, hearing the previous discussions, and reading the recommendations within the draft report – my suspicions became certain. The JCC was a huge waste of taxpayer dollars and that they were simply going through the motions. The JCC was given a directive, regardless of their findings, to recommend the elimination of licenses and boards.

But at last, there was one individual on the Committee, Dr. Matthew Will, who spoke up prior to adopting the recommendation of the committee and stated that the State of Indiana should continue to license Professional Surveyors. After a short discussion, Dr. Will made a motion to revise the recommendation to as follows:

The Jobs Creation Committee recommends that Indiana keep the State Board of Registration for Professional Surveyors and continue to license professional surveyors. The JCC did vote to recommend changes to the other licenses issued by the Board. As such, and pursuant to IC 25-1-16-14, the Jobs Creation Committee shall seek public input regarding these proposed changes at a future public meeting. The Indiana Professional Licensing Agency will submit an addendum to this report upon receipt of the Jobs Creation Committee's final recommendations.

(Continued on page 37)

(Continued from page 36)

With the recommendation to keep the State Board of Registration for Professional Surveyors, the JCC also suggests the Board continue to enforce licensure law and discipline licensees who violate license law and that those cases are prosecuted by the Indiana Attorney General's Office.

The above recommendation is found within the published Annual Report of Recommendations for the Professional Licensing Agency's Occupational Licensing Boards, dated July 1, 2015. The full report can be read at the following link:

[http://www.in.gov/pla/files/JCC_-_2015_Annual_Report_for_Licensing_Boards\(1\).pdf](http://www.in.gov/pla/files/JCC_-_2015_Annual_Report_for_Licensing_Boards(1).pdf)

I would remind you that these are simply recommendations to the Governor's Office and the General Assembly. For these recommendations to become reality, a bill would have to be introduced in the General Assembly and go through the process to become incorporated into the Indiana Code. ISPLS will continue to monitor this and be ready to defend the importance of our Profession and having licensed Professional Surveyors.

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MEMBERSHIP APPLICATION

July 1, 2015 - June 30, 2016



Name: _____ Date of Birth: _____
(Mr., Mrs., Etc.) (First) (Middle) (Last) (Month / Day / Year)

Nick Name: _____ Have you ever been found guilty of any felony? Yes or No

Please check preferred mailing address.

Home: _____ Ph: _____
 _____ Cell: _____
 County: _____ E-mail: _____

Employer: _____

Bus. Address: _____ Ph: _____
 _____ Fax: _____
 County: _____ E-mail: _____

P.S. Reg. # _____ Other Professional Registrations: _____

MEMBERSHIP *(Please check all applicable categories)*

Annual Dues

- Professional Member** - Any individual licensed as a *Professional Surveyor in the State of Indiana*. \$200.00
- Associate Member** - *Non-registered individuals who are engaged in support of the practice of surveying.* \$60.00
- Affiliate Member** - *Anyone affiliated with the surveying profession or any non-resident who is registered as a surveyor in another state other than Indiana.* \$65.00
- Chapter Membership** _____ \$20.00
(All Professional, Associate and Affiliate Member must designate a chapter in which they would like to belong to and pay the \$20 Chapter dues. Please state your chapter affiliation above or one will be assigned for you based upon your address.)
- NSPS Membership** _____ \$40.00
(All Professional Members residing within Indiana must include a NSPS Membership at \$40. All other member categories, including renewing out-of-state members, may participate in a NSPS Membership at \$40.)
- Student Member** - *Full-time student in a surveying related program / plus NSPS Student Membership* \$10.00 / + \$30.00
 School Attending: _____
 Degree You Are Pursuing: _____ Expected Graduation Date: _____

TOTAL DUES \$ _____

The amount you pay for ISPLS membership is 75% deductible as a necessary business expense but is not deductible as a charitable contribution. The Lobbying allocation will be spent on Lobbying, and is Non-Deductible.

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We accept: Visa MasterCard or Discover Check # _____
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 Name on card: _____ Cardholder's Signature: _____

"I, the undersigned, agree that by submitting my application and paying the appropriate fees, I agree to abide by the Constitution, By-Laws and Code of Ethics of ISPLS."

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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