

Revision of the Duties of the Office of the County Surveyor

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INTRODUCTION

I believe that as far as matters concerning lands are concerned the office of county surveyor should be the most important office in the county. This can be done without taking anything away from the other officers. It can be done by giving the county surveyor duties to perform which no one is doing now but which should be done in order to better serve the people of the county. Some of these duties are now the duty of the county surveyor but in numerous cases are not being done for one reason or another. One is the responsibility of the auditor, but I do not know of any auditor who is doing it. Others are new, but necessary to a progressive county.

Also, the county surveyor should be the county engineer. He should be an advisor to the commissioners on matters pertaining to engineering work of the county, the same as the county attorney is an advisor to them on legal matters. He should also be charged with the responsibility of seeing that such work is done to the satisfaction of the county commissioners, the same as a resident engineer is to the owner, or a project engineer is to the state.

It is obvious that in order to be sure of getting a man in the office of county surveyor who is qualified and capable of taking adequate care of these duties, some minimum standards or qualifications must be met by the prospective county surveyor. These minimum standards must be set up by an impartial group or board. In this state we have an excellent body to do this, namely the State Board of Registration for Professional Engineers and Land Surveyors. The county surveyor should be licensed as a professional engineer *and* as a land surveyor. A license as a professional engineer *or* a land surveyor would not be sufficient qualification. When we have enumerated all the duties of a county surveyor, I believe the reason for this will be self-evident.

It is also obvious that in order to get qualified men in the office of county surveyor the salary must be adequate to attract such men. Most men will not take a job paying \$6,000 a year when they can get one

paying \$10,000. If the county surveyor does all the work that will be mentioned in this list of proposed duties (and undoubtedly there will be others added) he will not have time to supplement his salary by doing outside work; he will have only his salary to depend on.

In order for the county surveyor to properly perform the duties outlined in this proposal he will have to have at least one deputy who is a licensed land surveyor. This deputy will also have to receive a salary sufficient to attract qualified men; probably about 90 per cent of that for the county surveyor.

PROPOSED DUTIES

Now, to go into more detail as to what should be the duties of the county surveyor.

First: All property surveys should be recorded in the county surveyor's office. They should be indexed by location so that they can be easily found. These records should be available to any land surveyor and should be used by them. It should be the duty of a land surveyor to furnish the county surveyor with a plat of the survey; the county surveyor should file or record it and index it. There should be a penalty against a surveyor for failing to furnish said plat.

Second: The county surveyor should keep a record in a separate book or books of all court ordered surveys, properly indexed so that they can be readily found. These court ordered surveys would occur in the following manner: When a line is in dispute each party is to have it surveyed. If the two surveyors cannot agree, then either party may take it to court and the court could decide between them by the court's own decision or the court could request a survey by a third surveyor or could order the county surveyor, if he was not one of the original two, to do so.

When the court decides where the line is, it must be properly monumented and tied in or referenced to other permanent markers or lines so that it can be definitely located. This record is then turned over to the county surveyor who records it in the proper book. The corners and lines established by these surveys are to be binding and cannot be changed. All other surveys are not binding except as noted below. This would do away with the present law on what are usually called legal surveys and which permits any land owner to order the county surveyor to survey a line.

In case one owner refuses to hire a surveyor he must abide by the survey made for his neighbor, unless he notifies the other owner in writing and within 60 days that he will have the line surveyed within six months. Both times will start on the day that such owner is notified.

in writing that the survey has been made and that he has 60 days in which to give notice of his intention to have it surveyed within six months. Copies of these notices must be given to the county surveyor who shall record them with the plat of said survey. If the notice is not given within the 60 days or the survey is not made within the six months, such original survey will be binding on all parties.

The cost of these surveys, court costs and attorney fees can be proportioned between the parties as the court sees fit, even to making one party reimburse the other for part or all of his costs.

Third: The county surveyor should perpetuate the corners of the U. S. surveys. This means that all corners originally established by the U. S. surveyors when they laid out the sections or grants should be perpetuated by the county surveyor. In the sections, this refers to the section corners and the $\frac{1}{4}$ corners but not the $\frac{1}{4}$ - $\frac{1}{4}$ corners. In the southern part of the state, it would not include the interior $\frac{1}{4}$ corners. In the grants it would include the grant corners and the letter corners. This does not mean that they cannot perpetuate other corners. It does mean, however, that these original corners, at least, must be maintained.

References for these corners must be kept in a separate book kept for this purpose only and indexed by location. This book should also show the last date each corner was checked in the field and by whom. Each corner should be checked at least once every 20 years. They would not have to be checked by the county surveyor but could be checked by any land surveyor who happens to use it.

Since it is important that these corners be maintained, a special budget should be set up and be used only for this purpose. This could be a certain per cent of the county property tax. No part of this money should be used to pay the salary of the county surveyor or his 1st deputy unless they spend more than 20 per cent of their time on it. This does not mean that they can augment their pay by spending more time on these corners. It means only that part of their salary can come out of this fund if they spend more than 20 per cent of their time on them.

Fourth: The assessor's plat books should be kept up by the county surveyor and kept in his office. At present these books are the responsibility of the auditor, but I do not know of any auditor that has them up to date or is attempting to do so. Most of them were made by the W.P.A. in the 1930's and were not correct then. The legislature ordered them brought up to date a few years ago but in most cases they were just re-copies of the old W.P.A. plats with a few changes thrown in.

Most auditors are not trained in making plats or reading descriptions in deeds. That is not the primary purpose of their office, so the keeping of the plat books is a chore that they do not relish and are not doing properly. I believe they would be happy to get rid of it. A land surveyor is trained in making plats and reading descriptions in deeds, so he is much better qualified to keep the plat books up to date.

These plats should be changed as soon as the ownership changes. To do this, all deeds would have to go through the county surveyor's office. They should then be stamped by him as outlined in Duty No. 5 below.

At present, the purchaser of land has to take his deed to the auditor to get it transferred and then to the recorder to get it recorded. A fee is paid in each office. In this new system it could be left with the county surveyor who collects the fee for both the auditor and recorder (but none for his own office) makes changes in the plat book and forwards both the deed and fees to the auditor, who then makes his entry and forwards the deed and fee to the recorder. The recorder then records it and sends the deed to the county surveyor, who shows on the plat book where the recorded deed may be found. The purchaser then may pick up his deed from the surveyor.

These first four duties are of primary concern to the land surveyor and to the public. All surveyors like to make surveys that are correct and that will check with surveys made by other surveyors. The public also likes to have their lines stay in the same place regardless of which surveyor makes the survey. At the present time this is hard to do because there is no one place where a surveyor can find out what has been done by other surveyors in the past. Since, under our present system of making surveys, there is little exchange of information between surveyors, it is seldom that two surveyors will locate a line in the same place. Very likely one is just as correct as the other. The discrepancy is due to one or more of three things: (1) the description is bad (2) no accurate corners to work from can be found and, of course, (3) poor work by the surveyor.

If these four duties are carried out by the county surveyor, a land surveyor will be able to find all the information that he needs to know in a matter of hours where now it may take days. Under the present system he still may not know what other surveyors have done in that area. Under the proposed system he could find all the information he needs to make a survey in the surveyor's office. First, he looks up the plat book for that area and gets the adjacent owners and where their deeds are recorded in the recorder's office and makes copies of them if necessary. Second, he looks for corners near his survey in the corner record book and gets their references. Third, he checks the legal survey

book to see if there are any established lines he must follow. Fourth, he looks for other surveys in the survey record book to see what other surveyors have done in that area. Of course, if he cannot make these other surveys check with his, he does not have to but if it is just a matter of judgment or striking an average of what he finds, he may decide to follow it anyway.

This procedure will tend to make one surveyor check another's work, and make the property lines stay put thus increasing the public's confidence in the land surveyor. At present this is low mainly because the public does not understand why two surveyors cannot check one another.

Fifth: The county surveyor should check all deeds for accuracy of the description in it. This is important because most arguments over lines are due to poor descriptions. He should check with the plat book to see if it is in the right location. The deed might say the S.E. $\frac{1}{4}$ when the S.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ is meant. If the grantor did not own anything in the S.E. $\frac{1}{4}$ the error would be evident and could be corrected before being recorded. It might say Lot No. 4 when Lot No. 9 was meant. He might even find that the grantor did not own the land. He should check the description for mathematical accuracy. He should check to see if there is a record of a survey of this tract in his record books and if so, whether the description is the same. He should then stamp the deed to show the quality of the description such as: (1) Grantor is not on record as owner, (2) Description is bad, (3) Description is mathematically correct, (4) Same as survey by — in —, (5) Description is good. One or more stamps may be required to properly show the quality of the description. Stamps (1), (2) and (4) need no explanation. Stamp (3) would be used when the description is mathematically correct but the county surveyor is not reasonably sure that it will fit on the ground. Stamp (5) would be used only when he is reasonably sure that it is correct, such as when it is to a lot in a recorded subdivision, a regular description such as N $\frac{1}{2}$, N.W. $\frac{1}{4}$, S.W. $\frac{1}{4}$, the same as a legal survey or when two or more surveyors have recorded separate plats to the same or adjoining properties and they check with the description.

If Stamps (1) or (2) is used, the grantee should have the right to accept the deed as is, or he may require the grantor either to get a good description made or to return his consideration in return for the deed. The grantor would have the right to do either one. In case the grantor does neither within 90 days, then the choice would revert to the grantee.

By this method the land owner is not absolutely required to have his property surveyed in order to sell it. He would have to have it surveyed only if that particular grantee would not accept it otherwise and he wanted to sell to him. This is being done today to a certain extent by lending institutions who will not buy a mortgage on a piece of property which does not have a marketable title. Frequently this is due to a faulty description. If a grantee agrees to accept a faulty description, he will at least know he may be buying into trouble.

It should be illegal for any county officer to accept a deed for transfer or recording without such a stamp. There should be a personal penalty against any officer for accepting such a deed. About \$5 for each infraction. Any deed so recorded should be null and void.

Sixth: The county surveyor's office should be open at all regular hours. Either the county surveyor or a deputy licensed to do land surveying should be in the office during these hours.

Seventh: The county surveyor should be in charge of all surveying and engineering work for the county. This includes such work as surveys of the property belonging to the county: survey, construction and maintenance of roads, bridges, buildings, drainage ditches and other public improvements. This does not mean that he should have the power to award contracts for new construction, but such new construction should have his approval as to engineering principles. He should be responsible to the commissioners as to the adequacy of its construction.

The commissioners should inform the county surveyor what work they want done. If the surveyor is unable to do the engineering work through his office, he should have the right to hire consulting engineers, with prior approval of the commissioners, to do such work. This additional cost to be borne by the county. The surveyor is to be his own judge as to whether he is qualified to do this particular work.

Eighth: In counties that have a county planning commission he should be the engineer for this commission. This includes such matters as maps, checking of proposed subdivisions before acceptance, checking on building permits, inspections, etc. If the load is too much for him to carry, he should have the right to hire additional help for this work, with the approval of the planning commission and at their expense.

Ninth: He should have on file in his office all right-of-way plans of state and federal roads in his county. The state highway department should be required to furnish him with at least two prints of all state rights-of-way. This is important because the state's right-of-way cannot be located from the deeds alone. This is because these descrip-

tions are tied in with stations on the center line of survey of the road and not with section lines or corners.

He should also have on file the right-of-way plans of all railroads in his county. Most of these can be taken from the deed records in the recorder's office, but some are not there. They would have to be procured from the railroads involved.

Most county road widths are hard to find so he should compile a list or map of such roads showing their width. In cases where he cannot find a record of their width he should determine their width by actual measurement in the field. The state highway commission has done this in Clark County and probably has also done it in other counties.

Tenth: The county surveyor's office should have on file all information pertaining to horizontal and vertical control compiled by any state or federal agency in the county. This would include the Geological Survey Quadrangle Maps, Bench Marks and Triangulation and Traverse Stations.

He should also have a set of aerial photographs of the county with the section number shown on them. The section lines should not be shown because that would cover any fence lines that otherwise might show up.

Eleventh: He should also make maps of the county showing the roads, streets, subdivisions, railroads, streams, etc. The public could buy these maps from his office. It would be well for him to keep a supply of any government maps, such as the quadrangle maps on hand for resale to the public.

IMPACT ON THE COUNTY SURVEYOR AND THE PUBLIC

If the county surveyor and his deputies do all the work outlined in the 11 principle duties stated above, it is obvious that they are not going to have much time to do private work, but the law should not prohibit them from doing this. However, when they do private work they should charge the same rates as other surveyors. Also, under Duty No. 2, when the county surveyor is ordered by the court to make a legal survey, he should charge the same as anyone else. The fees for these (both legal and private) should be his and not the counties. Except for legal surveys, he should not neglect his other duties to make these surveys.

This is practically going to remove the county surveyor from the role of a private surveyor, subsidized by the county, and will require one or more private land surveyors in each county. These private sur-

veyors will be more or less under the control of the county surveyor because they will have to turn over the plats of their work to him for recording. It will tend to weed out the poor or careless surveyor because he knows that what he does will be on record and eventually checked by some other surveyor. Failure to turn over these plats to the county surveyor within a reasonable time should be grounds for revocation of the surveyor's license. Also, poor work as evidenced by the fact that the other surveyors cannot consistently follow his survey, should be grounds for revocation. Evidence of poor work could also be gleaned from the plat itself, such as, no tie-ins with a recognized corner of the public survey, survey will not close, etc. The county surveyor should report these poor surveyors to the State Board of Registration for Land Surveyors, who should then take whatever action is required.

This proposed list of duties would also bring about a great benefit to the public—probably more than to the private land surveyor. At the present time, there is no one place to go to get information about land. People are usually shuttled from one office to another and frequently are unable to get what they want even then. For example, let us say, an industry is interested in acquiring property for a factory site. They want a site on a state road and railroad. They send an advance man into the county. All he can do is drive around and look for such a site or he may go to the local chamber of commerce. After a few days, he may find such a site. Then, he would have to find the names of the owners so he goes to the court house to find them. He doesn't find out there, so back to the field he goes and starts knocking on doors. He finds that the owners of about half the lots live on them. The others are renters but the lady of the house does not know the name of the owner. Her husband does know but he is away at work. He will be home about 5 o'clock and you could see him then. However, there are two vacant lots and nobody seems to know who owns them. Back to the court house he goes. Nobody knows who owns the lots but they all have suggestions as to how he can find out. The best one seems to be the assessor's plat book. He finally finds the page that shows the owners at that location. It gives him a name and deed record and page where the deed can be found. He goes to the recorder's office and looks it up but unfortunately it is a deed to property $\frac{1}{2}$ mile away. By this time he is just a little bit perturbed but he is a persistent cuss, so he decides to start with the original owner and trace it down to date. He finds the track book which gives the original owner and traces it down through the grantor book. However, the last conveyance he can find is in 1890 and it was to Mary Smith. Well,

maybe she married and sold it under her husband's name. The old transfer books in the auditor's office should show that but the transfer book doesn't go back that far. So up to the clerk's office he goes to check the marriage records. Ah, this may be it—Mary Smith and Paul Jones in 1895. Down to the recorder's office again and to the grantor books. Paul Jones sold it in 1899. He continues on down to a Tom Thompson who acquired it in 1930. Well, that was when the depression hit. Maybe he lost it for taxes, so he looks under the sales by the county. He is lucky, it was sold to William Douglas for back taxes in 1936. He traces it on down to a Joe Sampson, who turns out to be the current owner. Before he starts in on the other unknown lot owner, he decides to check the names he found in the field with the names on the transfer book. Two of them he can't find. So he calls them on the phone—he was lucky, they both had telephones. One wife tells him that the property is really in her mother's name. This turned out to be correct and the other said "Why we just bought it about a month ago." He asks about it in the auditor's office and finds the transfer entered in the entry book but it is not in the transfer book because these books are only up to date as of last March 1st. About this time his patience is worn out. So back to the home office he goes and asks them to locate a site in some other state.

Now, compare this with the procedure under the setup proposed in this paper. The advance man would go to the surveyor's office and tell him what he wants. The surveyor would show him the map of the county showing the location of the state highways and the railroads. From this, he could pick out several possible locations. Then, he would check on the quadrangle maps and aerial photographs and eliminate some as being too rough or undesirable. Then he could look up the planning commission maps and some more locations could be eliminated because the area is zoned residential. After looking at the plat books, some more could be eliminated because of too many small tracts. He then can go out in the field and look them over. He buys what maps he needs from the county surveyor and takes off. In a few hours, he is back. He has found what he wants. He copies the names of the owners with the deed record and page where they can be found. He heads back to the home office with all the information he needs to start negotiations with the owners. All this has possibly taken a day where under our present set-up it might take a week.

This procedure will benefit the public also by making possible better surveys which means that the property lines will be more likely to stay put, causing less friction between neighbors and less litigation over lines. Surveys will also become cheaper because less time will be

required to make the survey. Look at the saving in time by the advance man in the illustration above. Each surveyor would save a like amount of time on each of his surveys.

The office of county surveyor is set up in the constitution of the state of Indiana. Therefore, it cannot be eliminated except by changing the constitution. The constitution also sets out the qualifications for a county officer which includes the county surveyor. There are only two of them: (1) He must be an elector of the county and (2) He must have been an inhabitant of the county for one year prior to appointment. This does not say he cannot also be required to be a licensed engineer. But, an old decision of the State Supreme Court, reported in 63 Indiana 507, decided that this means any elector in the county can be a county officer. Therefore, unless the Supreme Court were to reverse themselves a constitutional amendment would have to be passed to require the county surveyor to be a licensed engineer. I do not believe that this would apply to a deputy surveyor because his office is created by the legislature. Therefore, the legislature could make it mandatory that a deputy be registered. The legislature can establish the salary of all county officials, so the salary of a non-registered surveyor could be set so low that non-registered men would be unlikely to run for the office, probably about 25 per cent of that set up for a licensed engineer. A non-registered county surveyor could be prohibited from doing any land surveys or engineering work. In such a case, the county could be required to hire a licensed engineer at the same salary he would receive if he was the elected surveyor and a licensed land surveyor at 90 per cent of this salary. In case the elected surveyor was a licensed land surveyor but not a licensed engineer his salary would be 90 per cent of that for a licensed engineer and the county would be required to hire a licensed engineer at full salary. This would create a situation where the deputies were getting more than the elected official. In order to have a qualified man in the office at all regular hours, I see no other way to do it without changing the constitution. I believe that if the salaries are raised all counties will soon have qualified men to fill the office. In my opinion the county surveyor, who is licensed as a civil engineer and as a land surveyor, should have at least the same salary as the auditor, clerk, sheriff and treasurer in the county. The present salary of these officials ranges from a low of \$4,000 to a high of \$17,500. The present salary of a county surveyor who is a registered engineer ranges from a low of \$2400 to a high of \$9,900 to which shall be added \$2 per mile for each mile of active drains and ditches in the county and to which also may be added any amount up to \$2,000 if the county council so desires.

The salary of a deputy as now set up ranges from \$1200 to \$9,000. If the salary was made 90 per cent of that proposed herein the range would be from \$3600 to \$15,750.

In closing I would like to say that I believe strongly that something should be done soon to improve the quality of the records of land lines and corners in our state. At present we have practically no records worthy of the name. We have no centralized control over them and month by month they are getting worse. It may be that what has been recommended in this paper is not the proper solution to the problem but I believe the ideas embodied herein are worthy of serious consideration by this group and the public.