

# 2005 CAREER ADVANCEMENT PROGRAM (C.A.P.)

## MUNICIPAL REPORT 14

### CLASS OUTLINE:

#### 1. History:

- a) The Bureau of Governmental Research and Services of the University of Washington, predecessor to the Municipal Research and Services Center of Washington, published Report No. 1 in 1949.
- b) The Municipal Research and Services Center (MRSC) published Report No. 4 in 1977, primarily for use as a guide by government planners, engineers, land surveyors, public works directors, and attorneys
- c) Updated in 1987 (Report No. 14) with all applicable legislation through 1986 session, including Washington Administrative Code (WAC) sections, constitutional provisions and selected judicial decisions
- d) Report No. 14 used not only by government employees, but also by those in private practice as a guideline for subdivision, platting, boundary, adverse possession law and waterfront lands under state and federal jurisdiction\*

#### 2. January 2000 Update Note:

- a) volunteer effort by Jerry Broadus for the Land Surveyors Association of Washington
- b) text not re-written, rather references made to current law as noted on lower left of each page (page 8 for example)
- c) suggested use with current LSAW Reference Manual\*\*
- d) updates to footnotes

#### I. Introduction:

- a) In 1785 the Second Continental Congress of the United States of America enacted the Public Land Survey System (PLSS) as a means of organizing and cataloging lands to *"facilitate the orderly settlement of the Midwest, portions of the south (including Florida) and lands west of the Mississippi River (except Texas)"*. The 1785 enactment was made a prerequisite to settlement and divided land into six-square-mile townships, each containing 36 square-mile sections. The "square mile" or section was the basic unit of land under the Land Ordinance Act of 1785 and equaled 640 acres, more or less.
- b) Amended in 1800 & 1805 to provide for further division into quarter sections.
- c) Amended again in 1832 to provide for further division into aliquot parts. (*aliquot-a part of a numeral or a distance that divides the numeral or distance into equal parts without a remainder - Glossary -pg E1*)\*\*\*

#### II. The Need for Surveys and Maps:

- a) Land Surveying, mapping, and map recording are essential for orderly land ownership and use.
- b) Counties charged with recording land survey documents under RCW 58.09 aka The Survey Recording Act.
- c) Land surveys are necessary for placing legally described lines upon the earth. (*Class is in a portion of the SW 1/4, SE 1/4, Section 9, Township 24 North, Range 5 East, W.M.*)

- d) Exercise of care by Surveyors - see apartment building encroachment anecdote - six year limitation on accrual (discovery) with three year statute of limitations after discovery, for a total of nine-year accountability upon completion of survey (Kundahl v. Barnett).
- e) Since 1935, Washington statutes provide for the separate registration of Professional Engineers and Professional Land Surveyors.
- f) State Base Mapping System: established and maintained by DNR - standards originally mandated to be on par with USGS\*\*\*\*

### III. Implementation By Public Officials:

- a) State Agencies: DNR and Commissioner of Public Lands charged with the location, establishment, surveying and platting (maps) of harbor lines.\*
- b) County Officials: County Surveyors charged with marking the lines dividing their respective counties - WSDOT charged with tying and or re-establishing any GLO monuments that fall within state right-of-way - County Assessor charged with keeping track of land divisions by plat (mapping), County Surveyor charged with surveying lines unless *field notes* provided by others.
- c) City Officials: legislative bodies of cities and counties have the responsibility of approving plats, subdivisions and dedications and are also charged with upholding certain rules and regulations with respect to surveying, monumentation, subdivision, platting and recording.

### IV. State Plane Coordinate System (SPCS): - July 28th class by Lynn Call

- a) RCW 58.20 adopted the system of state plane coordinates which had been established by the United States Coastal and Geodetic Survey (USC&GS) for defining the location of points on the earth's surface, designating the system within the State of Washington as the Washington Coordinate System, comprised of a north and south zone. Using this system, parcels of land can be definitively located upon the ground with respect to geographical identifier, having allowed for the spherical effect of the geoid.

### V. Technical Standards For Property Surveys:

- ai) The American Congress on Surveying and Mapping (ACSM) adopted Technical Standards for Property Surveys on June 28<sup>th</sup>, 1946, for the use of ACSM, affiliates and all other persons who have occasion to use them.
- a) Land Titles and Location: boundary lines should conform with land description to the extent possible - field surveys should be performed to identify and locate all controlling monuments (this can mean the thalweg of a stream - *Glossary -pg E8*) - land descriptions should be sufficient to survey on the ground and should be accurate from a title standpoint
- b) Maps: every land survey requires a map - must bear name and/or seal and signature of licensed surveyor
- c) Coordinate Surveys and Base Triangulation Systems: use of Washington State Coordinate System strongly encouraged
- d) Measurements: use of sufficiently accurate instruments and equipment kept in proper adjustment and maintained in good condition - balanced field measurements - expected closures
- e) Monuments: The type and position of monuments to be set on any survey shall be determined by the nature of the survey, the permanency required, the nature of the terrain, the cadastral features involved, and the availability of material.
- f) Planning and Design: no standard

## VI. Survey Recording Act:

- ai)** Every map, plat, report, description, or other document issued by a land surveyor must comply with the Survey Recording Act (RCW 58.09) if it is filed as a public record.
- a)** Must be filed with county auditor within 90 days of setting corners.
- b)** Must contain description of monuments found or set, bearing trees or other accessories, basis of bearings, map scale, north arrow, legal description of parcels, ties to adjoining surveys, and applicable certificates
- c)** Survey not required if of a preliminary nature, performed by a government employee and already filed with the county "engineer" (pre-1935), Surveyor, or auditor.
- d)** Records of Surveys to be legibly drawn on archival (permanent) quality material using permanent ink - 18" X 24" format - auditor to be furnished two legible prints, one for county records, the other to the Bureau of Surveys and Maps (now the Public Land Survey Office PLSO) in Olympia, Washington.
- e)** Monuments to be set must be sufficient in quantity and durability, and placed correctly to assure "surveyability" from the recorded document, and must bear the Surveyor's certificate number.
- f)** Noncompliance Penalty: noncompliance with any provision of the Survey Recording Act constitutes grounds for revocation of a land surveyor's authorization to practice the profession of land surveying.

## VII. Platting and Subdivision:

- ai)** regulated by RCW 58.17, the purpose of which is stated as: (refer to note at top of page 26) - legislative bodies directed by RCW 58.17.110 to: (refer to note in middle of page 26)
- a)** Subdivisions Not Subject to RCW 58.17 include: cemeteries and other burial plots *while used for that purpose*, division of land into lots or tracts larger than 1/128<sup>th</sup> of a section (5 acres), divisions as a result of testamentary (will or other) provisions or the laws of descent (probate law), binding site plan divisions, lease divisions (such as trailer parks), boundary line adjustments in which no new lots are created, and binding site plans consistent with the Horizontal Property Regimes Act under which condominiums are regulated.
- b)** Short Plats: a division of property into two or more (up to a total of 4 in some jurisdictions, or 9 in others, as stipulated in RCW 58.17.020(6) - intended to allow for "the summary approval of short plats and short subdivisions or revisions thereof" - has evolved into a process nearly as involved as final plats in some jurisdictions - "five year rule".
- c)** Preliminary Plats: maps, lot closures, etc. submitted for approval to the legislative body of the town, city, or county in which the subject property is located
- d)** Notice of Filing Preliminary Plat of Proposed Subdivision: oversight by legislative body (typically Planning Commission) of proposed subdivisions within a mile of existing community where there may be traffic and other impacts.
- e)** Role of Planning Commission or Agency - Plat Approval: recommendations to authorizing legislative body, adherence to time limits, public hearings, etc.
- f)** Factors to be considered in Approving or Disapproving Plats: legislative body must determine if provisions have been made for "the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds, and shall consider all other relevant facts and determine whether the public interest will be served by the subdivision and dedication".
- g)** Dedications: RCW 58.17.110 provides for the dedication of public land as a condition of final plat approval - RCW 82.02.020 amended in 1982 to create limitations on the authority to require dedications, prohibiting taxes, fees, or other charges to be imposed

upon development and classification of land, severely limiting the practice of requiring payments in lieu of land dedication.

**h)** State Environmental Policy Act: provides for the requirement to prepare an environmental impact statement before preliminary plat approval.

**i)** Final Plat Approval: includes recommendations from local health department, planning agency and engineer/surveyor and requires approvals from city (or county or town) officials on the face of plat as well as legal description of underlying parcel, and other statements, acknowledgements, certifications, dedications, easement provisions, etc.

**j)** Penalties: attempt to sidestep subdivision law or local regulations punishable as a gross misdemeanor for each sale, building permits will not be issued, provisions for recovery from seller including all costs from inability to obtain development permits, investigation, attorney's fees and work required to conform to legal lot status - violation of court order or injunction pursuant to subdivision law subject to \$5000 fine and/or 90 days in the slammer.

**k)** Unrecorded Plats: check with local jurisdiction to determine rules.

#### **VIII. Land Development Act:**

**a)** became effective January 1<sup>st</sup>, 1974 - read statement at top of page 44 - contains many requirements pertinent to developments in which sale of 10 or more lots within a 12 month period is anticipated, and is primarily concerned with the sellers and buyers of such properties

#### **IX. Aquatic Lands: November 17<sup>th</sup> class by Doug Hartman**

**a)** Shoreline Management Act of 1971: designates the Department of Ecology (DOE) as the ruling agency for "shores of the state". DNR given specific administrative responsibilities over aquatic lands, defined as those lands which are described in terms of relationship to waters of the state, including shorelines, shorelands, tidelands, harbor areas, and wetlands. In general, DNR is responsible for defining boundaries of the various categories of aquatic lands and for managing state-owned aquatic lands, DOE is responsible for control of the use of all shorelines of the state, which it does through a permit system.

#### **X. Problems Pertaining to the Location of Tracts of Land in Relationship to Water: November 17<sup>th</sup> class by Doug Hartman**

**a)** Though DNR charged with surveying and mapping water boundaries along tidal waters and shorelands, budgets have not allowed for this. Controversies still arise over waterfront boundaries.\*

#### **XI. Shoreline Management Act of 1971: November 17<sup>th</sup> class by Doug Hartman**

**a)** provides for the management and preservation of shorelines by adopting, implementing and enforcing a comprehensive planning and permit system in cooperation with local governments and the state.\*

**XII. Land Boundaries and Monuments: *December 15<sup>th</sup> class by Martin Paquette on Boundary Calculations - January 27<sup>th</sup> class by Leroy Middleton on Legal Descriptions***

- a)** boundaries established for first time as opposed to re-establishment or re-tracement surveys
- a)** Intent - where was the dividing line when division first made? Analysis of land description and related monuments required
- b)** Deed Description - most important component in determining intent, requires analysis of description and determination of reasonable certainty. Involves verification of monumentation as to time and place of transfer, examination of adjoining, etc.
- c)** special rules for relocation of lost or obliterated PLSS monuments\*\*\*
- d)** proportionate measurements
- e)** excess and deficiency - gaps and overlaps
- f)** government lots ( fractional sections)
- g)** Effects upon boundaries by subsequent events:
- h)** intent of common grantor - agreed upon lines not consistent with deed description
- i)** estoppel in pais
- j)** parol agreement
- k)** mutual recognition and acquiescence
- l)** statutory settlement of disputed boundaries
- m)** adverse possession (see pages 125 - 142) primarily the bailiwick of attorneys
- n)** prescriptive easements
- o)** vacation of roads, streets, alleys and highways