

PRIVATE SURVEYORS, PUBLIC GAIN:

Reforming the County Surveyor's Office

by Ernie Platt and David Oringdulph

EXECUTIVE SUMMARY

The primary responsibility of the county surveyor's office is to check and record the work of private surveyors. In counties with high levels of regional growth, this process can take up to three months, delaying the development and sale of land, and significantly increasing costs which are ultimately paid by consumers.



The financial losses incurred by excessive delays can be alleviated by restructuring the county surveyor's office. This proposal advocates the establishment of a Deputy Surveyor Program, whereby a pool of qualified private surveyors would accommodate the large volume of work by assuming survey-checking responsibilities. Competition between deputies, coupled with a new degree of liability, would ensure that deputy work is completed quickly, inexpensively and accurately.

The county surveyor's office would continue to fulfill its administrative function of keeping records, while being able to dedicate more attention to the maintenance of the public corners and monuments upon which surveys are based. To facilitate and complement this reform, the proposal asserts the County Surveyor should become an appointed office in all Oregon counties. If implemented, these changes could decrease the amount of time surveys spend awaiting approval, lower overall checking fees, and maintain quality service.

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This proposal was named a winner in the 1998 Oregon *Better Government Competition*, organized by Cascade Policy Institute. Opinions expressed are those of the author and do not necessarily reflect those of Cascade, its staff, or advisors, nor should the contents be construed as an attempt by Cascade Policy Institute to influence any election or legislation.

INTRODUCTION

Before land may be divided, developed or sold, it must be measured and mapped by a professional surveyor. These maps are then checked, approved, and recorded by the county surveyor's office. In counties where there is a large amount of development, partitioning and subdivision activity, the county surveyor at times cannot fulfill this checking responsibility within a reasonable timeframe. Lengthy delays translate directly into higher development costs, which are ultimately paid by consumers. By establishing a pool of private deputy surveyors, an over-loaded public county office could accommodate large volumes of work within a reasonable amount of time, decrease costs, and maintain quality service.

THE ROLE OF THE COUNTY SURVEYOR

Because each survey is based upon ones previously conducted, and is used for future mapping, it is essential that individual surveys are conducted accurately and properly. When surveys are made by professionals in the private sector, they must be checked for accuracy and recorded by an overseeing body to ensure the consistency of the system. Likewise, to ensure system accuracy, the monuments that are set must be maintained by the overseeing body. Although many county surveyors' offices have taken on roles not statutorily assigned to them, they primarily deal in the functions of checking and recording surveys, and maintaining monuments.

THE PROBLEM

Delays and costs in high-growth counties.

The process of getting plats checked, approved and recorded is not a simple one. When there is substantial development activity, county officials cannot always accommodate the volume of work presented in a timely manner. In some counties, it can routinely take three months to get a plat approved. For instance, in Washington County, among 25 plats which entered the queue between October 1997 and May 1998, the average wait was 104 days from the time the plat entered the queue until the review was completed. In September 1998, there were 23 plats in the queue waiting to be reviewed.¹ By February 1999, the average wait was down to just under three months, and 20 plats were awaiting review.² During the plat review period the land in question cannot be bought or sold, and does not generate property taxes at the higher developed-property rate.

The cost of these delays is significant. For example, on a \$2.5 million 50-lot subdivision, the development loan interest would be in excess of six hundred dollars a day. A three-month wait in the queue, therefore, could amount to over \$54,000 in direct interest costs. Lengthy waits can have numerous unforeseen implications. Due to delays, a builder might miss the drier summer season and be forced to carry out

construction during the wet months. Likewise, a sales deal can fall through due to the inability to complete a project by the contract deadline. The resulting financial burden rests on property owners, local taxpayers, future residents, and consumers.

Bureaucracy slow to respond.

Because construction and development activity varies over time, it is difficult to maintain an adequate level of staffing to meet demand. Constantly adjusting staff levels to accommodate the ebb and flow of the private surveying activity is an impractical solution given the hiring requirements and budgetary planning processes the public sector must follow. Consequently, county surveyor offices can be over-staffed at the expense of taxpayers, or under-staffed during peak periods at the expense of applicants. Some offices deal with this problem by borrowing staff from neighboring counties, or from other departments within their own county. The proposal outlined herein takes this idea of borrowing labor, and expands the opportunities by allowing private surveyors to supplement the county staff.

The planning review obstacle.

The role of the planning department can also prevent a timely review by the county surveyor's office. Plat checking is typically put on hold until approval has been granted by the planning department. Therefore, when a survey is submitted for review, it can sit for months waiting for release by the planning department before it even enters the queue at the surveyor's office.³ This is in addition to the three months it can spend waiting to be checked and recorded by county surveyors' offices in Oregon's busier counties.

GIGO - Garbage in, garbage out.

Because private surveyors are aware of the long wait ahead of them, they sometimes submit rushed or incomplete work in order to establish their place in line. For this reason, plats of poor quality are at times sent through the bureaus, further slowing the process and increasing the chance of mistakes. On occasions, a county surveyor must take extra time and do a more thorough checking job than should be necessary in order to correct these surveys. The amount of extra time required to check plats of poor quality can be substantial. Instead of sending incorrect plats back to the applicant as soon as a problem is found, counties often labor to identify the source of the problem, thus effectively taking on the job of the private surveyor, and slowing the entire process for everyone.

Elected, not appointed: popularity vs. qualification.

One cause for problems associated with the survey approval process is the fact that many county surveyors are elected rather than appointed. Such is the case in 24 of 36 Oregon counties.⁴ Most voters know little or nothing about the role of a county surveyor, much less whether the various candidates for the job are well-suited to fill it. Moreover, citizens are not likely to know when a county surveyor is failing to

perform crucial duties in an acceptable manner. Elected county surveyors therefore enjoy the freedom of an elected office — recall is unlikely, so officials have job guarantees for their entire term — without the checks and balances of constituent monitoring.

The consequences of this lack of accountability were seen in Clackamas County, where, until recently, the county surveyor held an elected position. Difficulties arose when interested parties were dissatisfied with their elected official's job performance, but powerless to replace him. The former Clackamas County Surveyor was charged with inefficiency, failing to attend to monument maintenance, and causing excessive delays. *The Oregonian* reported,

One of the most frequent complaints against [the county surveyor] is that he takes too long to complete a plat map, sometimes up to four months for a job that should take no more than a month. In 1983, a group of home builders tried to recall [him], charging that his processing of subdivision plats had come to a near stop.⁵

A decade after this recall attempt, the elected official was still drawing criticism. In 1994 he proposed an extended service user fee of \$5 for anyone entering the surveyor's office on business between the hours of 11 a.m. and 1 p.m. and a \$25 janitorial fee for anyone tracking mud in excess of 0.5 cubic inches' into the office.⁶

Though home builders and other applicants were unhappy with this county surveyor's job performance in 1983, just one year after he was first elected, the official continued in his same position for 14 years. Clackamas County voters re-elected this same county surveyor four times, perhaps due to name recognition as the position was previously held by his father.

In 1994, the Board of County Commissioners set up a Surveyor's Advisory Committee to address problems in the county surveyor's office. The committee recommended that the elected official be reassigned, but were powerless to fire him. Finally, three years after the committee's inception, and more than a decade after the original recall attempt, the surveyor resigned and accepted a lesser position within the county surveyor's office. The Clackamas County experience illustrates two problems with electing county surveyors. First, the general public lacks the knowledge base necessary to cast an informed vote in this arena. Second, commissioners and interested parties cannot hold an elected county surveyor accountable for his job performance. In election year 1998, Clackamas voted in favor of making its county surveyor an appointed position.

ESTABLISH THE DEPUTY SURVEYOR PROGRAM

Several reforms can be implemented to address the above problems. To accommodate fluctuating or excessive volumes of work at some county surveyors' offices, a deputy surveyor program should be established.⁷ Under this system a pool of qualified private surveyors will complete the actual survey checking, while the county office will maintain recording and administrative functions, and responsibility for monument maintenance. Private surveyors are licensed professionals, eminently capable of checking surveys; there is no reason this duty should be reserved for county officials.

By allowing deputies to step in to fulfill checking duties, large volumes of work will no longer rest on one county office, but may be divided among many competent professionals in the private sector. This will alleviate the bottleneck of the county surveyor's office in busier counties, and prevent offices from being staffed unnecessarily in counties where subdivision activity has decreased. In essence, the county will have access to a much larger, albeit private, staff without incurring the associated expenses.

Expedition through simultaneous survey checking and planning review.

Under the Deputy Surveyor Program, service could also be expedited by allowing applicants to request that deputies begin checking plats when their applications are first submitted to the planning department, instead of waiting for the planning department release. The two approval processes could occur simultaneously, greatly decreasing the overall waiting time. If it should happen that the planning department requires changes after a survey has already been approved by the surveyor, the applicant would have to resubmit the revised version. In such cases the deputy may set a discounted re-checking fee.

The concurrent review would be a voluntary option. Those who anticipate changes from the planning department, or who do not wish to take the risk, would simply not exercise this option. However, concurrent review will appeal to those who are confident of the planning department's eventual approval, and to whom the benefit of faster service outweighs the risk of having to resubmit work or the expense of a re-checking fee. These applicants will submit work of the highest quality to avoid any re-checking fees and delays.

Quality assurance.

Through careful implementation and some minimal oversight of the Deputy Surveyor Program, not only will the quality of submissions likely improve, but the quality of the checking process will be as high or higher. Private deputies will initially be chosen based on a number of criteria, including, but not limited to, caliber of work and years of experience. All deputies will be registered professional surveyors as well. Counties should hold deputies subject to some form of liability

or require performance bonding, though it must be remembered that liability already ultimately rests with the applicant. Finally, quality will be assured by the county surveyor's ability to overturn any decision, and remove deputies from the pool at any time for incompetence.

Increased choice, better service, lower costs.

If implemented properly, applicants' options will greatly expand under the new system, while their costs will likely decrease. Applicants will be free to choose which deputy will review their work; contracts and billing will occur directly between the two parties, without the county's involvement. Allowing this freedom to choose will contribute significantly to cost containment, prompt reviews and quality assurance. If applicants are allowed to select their deputy, they will opt for one that charges a reasonable price and can work within a satisfactory timeframe. They will also want a deputy who does quality work, as any mistakes in the checking process can lead to delays or serious consequences due to liability.

With no limit on the size of the deputy pool, a new element of competition between the multiple deputies will ensure that work will be completed quickly, inexpensively and well. Of course, some property owners may prefer to pay a higher checking fee to have their plat reviewed faster or with more scrutiny. Given the ability to contract with their deputy of choice, applicants can individually determine what level of service they desire and can obtain such services at a competitive price.

RESTRUCTURE THE COUNTY SURVEYOR'S OFFICE

To facilitate the Deputy Surveyor Program the county office will initially be required to undergo some restructuring, but it will benefit in the long-run from greater efficiency and responsiveness. The primary responsibilities of county officials under the new system will be the oversight of the deputy program, recording of approved surveys, and monument maintenance. Staff sizes could decrease in accordance with the more limited responsibilities, and benefit from a new degree of specialization.

Deputy surveyor oversight.

Once established, the deputy program will require a minimal amount of on-going coordination for the registration of new deputies and the oversight of deputy work. In order to ensure that deputies are performing to the county's standards, some counties may initially choose to perform occasional, random spot checks. Such oversight should be done on a very limited basis, as the intention of this reform is not to create an additional level of review, but to supplant one for another. Further, spot checks should not continue beyond the initial years of implementation; once the county's expectations are established and clarified, this safety net should be unnecessary.

The county will need to be able to address disputes between deputies and applicants. This would be an improvement over the current system, because applicants now have little recourse if they feel an incorrect or unfair decision is made. Bringing a lawsuit against the county surveyor's office is too time consuming and expensive to be an acceptable solution. Under the reformed system, if an applicant were to disagree with the decision of a deputy he could file a complaint with the county, charging substandard work. The applicant could then take his plat to another deputy, or perhaps appeal to the county office for an impartial review. The county will keep a public record of complaints; they will conduct investigations and remove individuals from the deputy pool when necessary.

Maintaining records.

The county office will continue in its role of recording and maintaining files of approved surveys, along with overseeing the Deputy Surveyor Program. As attention becomes focused on these specific responsibilities, such specialization may lead to more efficient and technologically advanced methods of completing these tasks, and in turn, lower recording fees.

With more time available among the public sector employees, it is reasonable to establish a time limit for the recording to be completed. Similar to the state-wide requirement that rulings on land use or zone change applications must occur within 120 days,⁸ the county could be required to record approved surveys within a specified period of time. As with the 120-day rule, if the recording of a survey is not completed in that specified period of time the fee charged by the county would be returned to the applicant. Failure to meet time limits would be rare, as the county would lose its payment as a result.

Improving on monument maintenance.

With fewer responsibilities to bear and more time available, the county surveyor's office can turn its attention to the upkeep of public corners and monuments. Counties currently maintain Public Land Corner Restoration Funds for this purpose. With these monies, deteriorating markers can continue to be dealt with in-house or the work may be directed to a deputy or other qualified professional. By contracting with the private sector to fulfill monument maintenance, counties can again benefit through more options; price can decrease and quality increase when multiple individuals are allowed to compete for this work.

Appoint, rather than elect, County Surveyors.

In addition to the above reforms, the county surveyor should be made an appointed rather than an elected position throughout Oregon. This change will be advantageous, as it will take a professional position away from the realm of politics, allowing county surveyors to gain office based on qualifications, not popularity or party affiliation. Moreover, making the surveyor an appointed position will eliminate the lack of accountability in this obscure public office. County

commissioners will gain the ability to demand quality service and the authority to keep surveyors' offices on task.

Additionally, this reform will facilitate the establishment of the Deputy Surveyor Program. By appointing the county surveyor, and retaining the option of replacement, county commissioners could require that a deputy system be developed and implemented.

IMPLEMENTATION

The key to establishing a successful Deputy Surveyor Program is a carefully considered implementation plan. The following steps should be taken to achieve a smooth transition and favorable results.

1. Remove the statutory requirement that county surveyors be elected. Upon legislative action, ORS 204.005 can be amended to delete the county surveyor from the list of county officers who must be elected. Also, section 203.035(3) of the Home Rule Chapter can be amended to empower the county commissioners to change the mode of selection of the county surveyor. In the absence of a statewide change, individual counties can, and have, sought the same ends; Measure 3-46 recently passed in Clackamas County, changing their county surveyor from an elected to an appointed position.
2. Establish a deputy application process. A method for selecting deputy surveyors must be determined. In addition to requiring a current professional surveyor's license, an application process should focus on an applicant's demonstrated work history. Emphasis could be placed on the quality of past surveys, turnaround times, years of experience and reputation. For those without work experience in private surveying, consideration should fall on their training and ability to perform deputy functions.

It should also be noted that individuals can be eligible for deputy status without living in or near the county in question. Survey checking can be carried on long-distance. Though someone will have to be on site to check that monuments have been set, much of the work can be done by individuals or companies in other counties, or even out-of-state. This will allow all counties access to a greater number of deputies.

Application forms will have to be developed, and the county surveyor's office will have to review applications and appoint qualified deputies. Prospective deputies should be able to submit applications at any time, and

there should be no limit on the number of deputies a county may have. A reasonable application fee could be required to cover the costs of reviewing applications.

3. Clarify deputy's responsibilities. Counties will need to determine what they expect of a deputy and to communicate those expectations to the deputies. The county may currently be performing functions that the deputies should not be expected to continue. As was stated above, when substandard plats are submitted for review, some counties spend inordinate amounts of time laboring to identify and correct the errors. Although some clients may wish to pay extra for such services, deputies should not be required to fill such a role. Any services that a client may desire which extend beyond those minimally required of a deputy can be negotiated individually between deputies and their clients.

Though the county will not be responsible for training deputies, they will have to clarify their minimum expectations. Toward this end, courses, printed and on-line material, and checklists could be developed.

4. Determine a system for the oversight of deputy work. The county surveyor's office will need to be responsive to concerns regarding the performance of a given deputy. A formal complaint process should be established whereby individuals can submit oral or written complaints, and request an investigation or dispute resolution over a specific survey. Infractions should be made public record, and any deputies found to be incompetent should be dismissed from the deputy pool.
5. Determine appropriate recording fees. The current checking fee will have to be divided into: a) variable checking costs, determined by, and paid to, deputies, and b) a flat rate paid to the county surveyor's office. The latter will be dedicated to recording costs, file maintenance, monument restoration, and some minimal deputy oversight. The current declared filing fee is \$100 in both Washington and Clackamas Counties. Under the new system, the recording fee should remain the same or decrease; although some new duties will be added, the county surveyor's internal variable expenses should decrease substantially with their newly limited staffing and responsibilities.
6. Train county surveyor office staff. Members of the county surveyor's office staff will need to be educated in the purpose of the reform and the details of their

new responsibilities. Oversight of the Deputy Surveyor Program will be the primary new responsibility.

OBSTACLES TO IMPLEMENTATION

Moving to a deputy program.

By changing the county surveyor to an appointed position, the transition to a deputy program could occur more smoothly. If the commissioner-appointed county surveyor resisted establishing the deputy program, he could be threatened with dismissal by the county commissioners. Similarly, if the county office failed to perform its new responsibilities satisfactorily or establish a reasonable base recording rate, dismissal would be in order.

Extra duties performed by county surveyors.

Several county surveyors' offices have taken on duties beyond those originally assigned to them. For this reason, each county will need to assess their own functions to determine whether they are performing extra duties, whether such duties are necessary, and if they could be done by deputies or other private providers.

Public employee job security.

It is likely that the majority of opposition would come from current members of the county surveyors' offices. These public employees might fear losing their jobs as their work load is farmed out to the private sector. Though the county office will retain a core staff for administrative and recording functions, some employees will no longer be needed. These individuals could be absorbed by the private sector, as the volume of work for private surveyors will increase under the deputy program. Further, qualified staff members could apply to become deputy surveyors and establish their own services.

Addressing quality concerns.

Finally, some may argue that the implementation of the Deputy Surveyor Program will result in the approval of inaccurate surveys. Through a careful selection program and reasonable oversight, the quality of service provided by each deputy should be secured. By allowing applicants to choose which deputies will check their work, the market forces which drive up quality and decrease costs will be in effect as well.

Some may fear that with the new degree of choice, applicants could choose their friends to check their surveys and receive preferential treatment. However, it must be remembered, in the current system there is no guarantee of impartial checking through public officials; a county official can unfairly approve or reject surveys with little fear of liability or job loss. In contrast, under the Deputy Surveyor Program, if applicants recognize shoddy work they can file complaints and appeal decisions. More immediately, they can take their business elsewhere.

Ultimately, poor performance by a deputy surveyor would result in dismissal from the deputy pool. Each county will reserve the right to remove individuals or companies from the deputy list at any time for failure to comply with checking duties. Deputies will take care in fulfilling their obligations, as removal from the pool would amount to a substantial loss of business.

Further, to ensure impartial and accurate work, and accountability, deputies should be required to have performance bonding and assume some degree of liability. Currently, Oregon county surveyors bear a liability of up to one hundred dollars.⁹ This is a meager sum when one considers that a mistake in the checking process can result in significant and costly delays, or future lawsuits against the applicant. A Deputy Surveyor Program which places appropriate liability upon those who check surveys will therefore be an improvement over the current system. When both applicant and deputy are liable for the work done, quality survey checking will be in everyone's best interest.

BENEFITS TO BE REALIZED

The short- and long-term benefits of these reforms will be substantial, and will make the initial investment of time and energy more than worthwhile. Among the anticipated gains are:

- Faster service through access to a larger, competitive workforce.
- No unnecessary public staff during periods of slow growth. Staff adjusts automatically to market demands.
- Decreases in the property holding costs associated with excessive delays.
- Decreased checking costs through competition among deputies.
- Decreased recording costs resulting from a smaller, more focused county staff.
- Better care of public markers and monuments.
- Optional expedited approval by beginning the checking process before the planning department release is obtained.
- A new degree of accountability for the county surveyor's office through appointing, rather than electing, officials.
- Greater accountability in survey checking through increased liability.

FURTHER AREAS OF EXPLORATION

As we seek to improve the county surveyor's office, there are two additional reform possibilities to consider. First, we must ask if it is possible to make the county surveyor's office tax-independent. Most offices are already functioning with very little general fund support. With the improvements of the Deputy Surveyor Program, it seems that all county offices can and should be funded entirely through recording fees.

Second, we should investigate the possibility of contracting out the county surveyor's office. Not only is the private sector fully capable of performing the duties of survey checking, but of record keeping and monument maintenance as well. By allowing public employees and private companies to bid for the opportunity to provide these services, Oregonians can secure the best quality service for the lowest cost.

CONCLUSION

In some urbanizing and developing counties of Oregon, the county surveyor offices are, for one reason or another, unable to fulfill their duties in a timely manner. Substantial financial losses are absorbed by the development community when land is frozen while awaiting survey approval, losses which are eventually passed on to future residents and consumers. By establishing a Deputy Surveyor Program and restructuring the county surveyor's office accordingly, these delays, and their consequences, can be circumvented.

Under the new system, a pool of qualified private surveyors will alleviate the pressures on the county surveyor's office by assuming checking responsibilities. Service will be expedited through access to a large, competitive workforce. The county office will oversee the deputy program, keep records and maintain public monuments, while decreasing staff levels and becoming more responsive to the public's needs. By increasing efficiency and maintaining quality service in the county surveyor's office, regional growth and development will prosper, and all Oregonians will benefit.

ENDNOTES

1. Washington County plat-checking status report, September 10, 1998.
2. Washington County plat-checking status report, February 16, 1999.
3. Washington County plat-checking status report, September 10, 1998. At the time of this status report, 36 plats were awaiting planning department release in order to enter the queue for the county surveyor's office. In February 1999, 32 plats were awaiting planning

department approval, Washington County plat-checking status report, February 12, 1999.

4. County surveyors are appointed in Benton, Clackamas, Clatsop, Hood River, Jackson, Lane, Malheur, Marion, Multnomah, Polk, Umatilla, and Washington Counties. All others are elected. 1997-1998 *Oregon Blue Book*, pp. 312-321.
5. Mark Larabee, "County moves to alter surveyor system amid squawks," *The Oregonian*, August 30, 1996.
6. Dennis McCarthy, "Milne family hopes to hold surveyor job," *The Oregonian*, November 4, 1994.
7. Clackamas County currently has a limited deputy surveyor program in which the county assigns work to three deputies. The Clackamas system differs from the one discussed here, both in size and in structure.
8. See ORS 215.428, and Section 2, Chapter 414, *Oregon Laws 1997* on the 120-day rule.
9. ORS 209.990 (3).