



# The UCLS Newsletter



*The UCLS Newsletter  
is published monthly by the*

**Utah Council of  
Land Surveyors**  
PO Box 1032  
Salt Lake City, UT 84110

**Phone / Fax:**  
801-964-6192

**Website:**  
www.ucls.org

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"Character is like a tree, and reutation like its shadow.  
The shadow is what we think of it;  
the tree is the real thing."  
-Abraham Lincoln

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**Where is it?**



At one time, this "Dog" was in the Guinness Book as the **World's Largest St. Bernard**. He weighed 298 pounds in life and his owner loved him so much he had his head mounted after he died. Do you know where this extraordinary taxidermy exhibit is located? Be the first to identify where it is found and you become eligible for a free luncheon at your next chapter meeting. Answers may be emailed to Susan at [smerrill@ucls.org](mailto:smerrill@ucls.org). The earliest received date and its time of response will determine the winner.

**In This Issue:**

For the second month in a row, all four of our "getting to know you" candidates declined an invitation

to participate. It really is discouraging to see the unwillingness that many of your members have regarding participation in the Council.

Nevertheless, in this issue we ascertain several typical ALTA/ACSM questions, quiz you on BLM glossary terms, and review a Utah Court of appeals case regarding calls to monuments taking precedence over course and distance.

Additionally, you will find another app for surveyors and a dastardly deed to entertain and enlighten.

We invite you to share charismatic photos of yourself and/or a coworker, panoramic images of Utah's scenic wonders, or pictures of survey related tools and equipment. Additionally, we need interesting and unique descriptions or survey related stories to share with our membership. Remember, if you do not participate you have no right to complain. Please let us know your thoughts, recommendations, suggestions, or complaints.

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## Utah Council of Land Surveyors Executive Board and Committees

### UCLs Executive Board 2014

#### State Chair

Kenneth Hamblin (CC)  
59 N. 2120 East Circle  
St. George, UT 84790  
Business: (435) 673-3075  
khamblin@infowest.com

#### State Chair Elect

Scott Woolsey  
43 S. 100 E. Suite 100  
St. George, UT 84770  
Business: (435) 628-6500  
Fax: (435) 628-6553  
scottwoolsey@alphaengineering.com

#### Past State Chair

Ernest Rowley (GS)  
3648 W. 6050 S.  
Roy, UT 84067  
Business: (801) 399-8353  
Fax: (801) 399-8316  
erowley@co.weber.ut.us

#### NSPS Governor

Steven Keisel (SL)  
604 S. Blossom Circle  
Fruit Heights, UT 84037  
Business: (801) 468-2043  
Fax: (801) 468-2045  
skeisel@slco.org

#### West Fed Representative

Michael W. Nadeau (SL)  
5226 W. Ashland Rose Dr.  
Herriman, UT 84065  
Business: (801) 569-1315  
Fax: (801) 569-1319  
mikenadeau.ucls@gmail.com

#### Book Cliffs Chapter President

Ryan Allred  
P.O. Box 975  
Duchesne, UT 84021  
Business: (435) 738-5352  
Fax: (435) 738-5722  
dallred@ubtanet.com

#### Book Cliffs Chapter Representative

David Kay  
85 S. 200 E.  
Vernal, UT 84078  
Business: (435) 789-1017  
Fax: (435) 789-1813  
dkay@uintahgroup.com

#### Color Country President

Todd Jacobsen  
2458 Scenic Drive  
Santa Clara, UT 84765  
Business: (435) 627-4124  
Fax: (435) 627-4133  
tjacobsen@sgcity.org

#### Color Country Chapter Representative

Roger Bundy  
257 Prickley Pear Drive  
Washington, UT 84780  
Business: (435) 673-2918  
Fax: (435) 673-2918  
rbsurveying@awinets.com

#### Golden Spike President

David K. Balling  
198 E. Shadowbrook Lane  
Kaysville, UT 84037  
Business: (801) 295-7237  
dkballing@msn.com

#### Golden Spike Chapter Representative

Val Schultz  
2096 W. 5750 S.  
Roy, UT 84067  
Business: (801) 399-8018  
Fax: (801) 825-1320  
v Schultz@co.weber.ut.us

#### Salt Lake Chapter President

Brad Mortensen  
3268 S. 930 W.  
Syracuse, UT 84075  
Business: (801) 882-6385  
btmort@earthlink.net

#### Salt Lake Chapter Representative

Dale Robinson  
12227 S. Business Park Dr., #220  
Draper, UT 84020  
Business: (801) 523-0100  
Fax: (801) 523-0990  
drobinson@sunrise-eng.com

#### Timpanogos President

Bradly D. Daley  
3814 Sage vista Lane  
Cedar Hills, UT 84062  
Business: (801) 566-5599  
Fax: (801) 566-5581  
bdaley54@msn.com

#### Timpanogos Chapter Representative

Jim Kaiserman  
1020 Sage Circle  
Heber City, UT 84032  
Business: (435) 657-3222  
Fax: (435) 657-3207  
jkaiserman@co.wasatch.ut.us

#### Administrative Secretary

Susan Merrill  
PO Box 1032  
Salt Lake City, UT 84110  
(801) 964-6192  
srmerrill@ucls.org

#### Treasurer

Brad Mortensen (SL)  
3268 S. 930 W.  
Syracuse, UT 84075  
Business: (801) 363-5605  
Fax: (801) 363-5604  
btmort.earthlink.net

#### Chapter Vice Presidents:

Book Cliffs John R. Slaugh  
jrs@timberlinels.com

Color Country Bob Hermanson  
bobh@bushandgudgell.com

Golden Spike Chris B. Balling  
chris.balling@guestar.com

Salt Lake Joe D. Richardson  
rsinc2002@hotmail.com

Timpanogos Kevin Bishop  
kevin.oakhills@gmail.com

#### Chapter Secretary/Treasurer

Book Cliffs Arnelton T. Davis  
ndavis@sbt.net

Color Country Brad Peterson  
brad@developmentsolutions.co

Golden Spike Travis Gower  
gwlsurvey@gmail.com

Salt Lake Darlene Jeffreys  
ostaja@me.com

Timpanogos Chad Poulsen  
chad@lei-eng.com

#### Committees & Committee Chairs

Legislation Doug Kinsman  
dkinsman@co.tooele.ut.us

Education Dan Perry  
perrydl@uvu.edu

Publication Steve Keisel  
svkeisel@gmail.com

Standards & Ethics  
Steve Dale  
Steve.Dale@wvc-ut.gov  
Tim Prestwich  
tprestwich@rivertoncity.com

Membership David Balling  
dkballing@msn.com

Public Relations Randy Smith  
rdsmith@utah.gov

Testing Darryl Fenn  
dfenn@merid-eng.com

Workshop & Convention  
Ron Whitehead  
ron2@washco.state.ut.us

Historical K. Greg Hansen  
greg@haies.net

Construction Survey  
David Mortensen  
DMortensen@bushandgudgell.com

## ALTA/ACSM Question

### Question:

Have you had clients wanting an ALTA survey using a title opinion vs a title commitment? All I was given was basically copies out of an abstract and a two-page title opinion (August 26, 2014) listing restrictions and limitations along with a legal from a title company in 2009.

### Response:

In my opinion, “the most current” title opinion should be perfectly acceptable in lieu of commitment - at least until or unless the next version of the standards says otherwise! You would want to reference the source and date of the opinion on your survey, obviously.

## ALTA/ ACSM question 2

### Question:

It has come to my attention that surveyors in SE Michigan are being inundated with requests for “Modified ALTA” surveys. Apparently, the request, mostly from First American, asks for a glorified mortgage survey with their own certification, and call it a “Modified ALTA.” Unfortunately, there are surveyors and lawyers who think this is acceptable. I would like to know if a “white paper” type of document has been prepared. What I am thinking about is a one-page letter cosigned by NSPS and ALTA that defines, in no uncertain terms, that an ALTA/ NSPS Land Title survey is a survey that strictly conforms to the requirements, certification, and intent of the currently published standards. Additionally, any survey having a certification other than the required certification IS NOT an ALTA/NSPS Land Title Survey.

### Response:

Maybe this could be one of the ALTA/ACSM FAQs. Just a paragraph stating why there is no such thing as a “modified ALTA” survey.

There has been a trend in the last few years on the part of the various parties to conveyances of commercial property to accept something considerably less than ALTA/ACSM Land Title Surveys as part of securing title insurance. The tactics associated with this trend continue to evolve.

The trend is driven by lenders whose only concerns are in securing “extended coverage” (removal of the standard survey exception) for their policies. Everyone involved in these transactions needs to understand that lenders have only their own proprietary interests in mind - not the buyer’s. Although there is nothing inherently wrong with that fact, it results in distortions to the detriment of others - and surveyors are not immune.

### DO YOU KNOW

According to the BLM manual of instructions, the proper name for that line running from one quarter corner to the opposite quarter corner is called the \_\_\_\_\_ of the Section.

- |                                  |                                  |
|----------------------------------|----------------------------------|
| A. <u>Center of Section Line</u> | B. <u>Quarter Section Line</u>   |
| C. <u>Centerline</u>             | D. <u>Center line of section</u> |
| E. <u>Center Line</u>            | F. <u>Fractional Line</u>        |

See Page 8 for correct answer



## IN THE UTAH COURT OF APPEALS

Paul W. Clark, as Trustee for the Clark Children's Irrevocable Trust,  
Plaintiff and Appellee, v.  
E. Craig Smay and Judith Smay,  
Defendants and Appellants.

## OPINION

(For Official Publication)

Case No. 20020758-CA

FILED

(January 27, 2005)

2005 UT App 36

Third District, Salt Lake Department

**1**This case involves a dispute over a strip of land located in Salt Lake County. The trial court ultimately quieted title to the disputed property in Appellee, concluding that a survey based on the metes and bounds description of a deed controlled over the depiction of a natural monument on a subdivision plat map. We affirm.

## BACKGROUND

**2**In August of 1909, the Leinket family was deeded a large parcel of land bordering on the Maple City subdivision located in Emigration Canyon in Salt Lake County. The deed described the boundaries of the land by metes and bounds. The Leinkets then recorded a plat map for the Margarethe subdivision consisting of the same land deeded to them earlier and containing the same metes and bounds description for the entire parcel. However, the Margarethe subdivision plat map also depicted a creek that had not appeared on or been described in the original Leinket deed, and the depiction of which later proved to be inconsistent with the metes and bounds description of the subdivision's boundaries as well as the boundaries of several lots in the subdivision.

**3**Years later, and after the land had passed subsequent owners, and surveyor plotted the Margarethe subdivision's boundaries approximately ninety feet south to correspond to the creek as shown on the 1909 Margarethe subdivision plat map. Vis-a-vis the neighboring Maple City subdivision, the new survey, done in 1967, showed the boundaries of the Margarethe subdivision to overlap the Maple City subdivision.

**4**Between 1972 and 1990, Appellants E. Craig and Judith Smay acquired certain parcels of land that they believed were entirely within the Margarethe subdivision. However, none of the deeds to the Smays were simple conveyances of particular lots in the subdivision as shown on the original subdivision plat map. Some of the deeds contained metes and bounds descriptions of the boundaries as "relocated" by the 1967 survey to reflect the placement of the creek drawn on the subdivision plat map, while others referred to lot designations as modified by the 1967 survey. From 1995 to 1996, Appellee Paul Clark acquired real property within the Maple City subdivision without knowledge that, according to the 1967 survey, the boundaries of his property in the Maple City subdivision were overlapped by the Smays' property. I need, a ninety-foot wide strip of the property Clark purportedly acquired is claimed by the Smays. The Smays argue that, according to the boundaries identified in the 1967 survey they relied upon when purchasing the land, they own the disputed strip. Conversely, Clark argues that, according to the Maple City subdivision plat that he relied upon when purchasing the land, and consistent with the boundaries of the Margarethe subdivision as established by the metes and bounds description stated on the original subdivision plat map, he owns the ninety-foot strip of land. Moreover, Clark contends that the 1967 survey is fundamentally flawed because the boundaries of the Margarethe subdivision should be defined according to the metes and bounds description contained on the Margarethe subdivision plat map, rather than in relation to the location of the creek.

**5**Clark commenced an action against the Smays to quiet the title to the strip of land. The trial court entered judgment for Clark, concluding that the creek was not a monument called to in any of the legal descriptions of the property nor on the Margarethe subdivision plat map. The court also reasoned that the metes and bounds description found in the original 1909 deeds and subdivision plats gave a more reliable description of the subdivision boundaries than did the 1967 survey's placement of the property boundaries in relation to the location of the creek. It quieted the parties' titles accordingly. The Smays appeal.

Case Article continued on page 5
----------------------------------

Case Article continued...

#### ISSUE AND STANDARD OF REVIEW

**6**We must decide whether the boundaries of the land should be defined by the metes and bounds description of the Margarethe subdivision found in the 1909 deed and subdivision plat or whether they should be defined in relation to the creek, as portrayed on the Margarethe subdivision plat map and placed by the 1967 survey. If the boundaries are defined by the metes and bounds description, as Clark contends, Clark owns the disputed land. If the boundaries of the Margarethe subdivision are adjusted to match the location of the creek as represented on the Margarethe subdivision plat map and as placed by the 1967 survey, the property belongs to the Smays.

**7**Whether the creek qualifies as a called-to monument and whether the creek's location- as a called-to monument- prevails over the metes and bounds description are questions of law. See Williams v. Oldroyd, 581 P.2d 561, 562 (Utah 1978) (concluding as a matter of law that when a metes and bounds description conflicts with a call to a monument, the monument takes precedence over a call of course or distance); Achter v. Maw, 27 Utah 2d 149, 493 P.2d 989, 993 (1972) (concluding as a matter of law that the edge of the rim of a canyon wall qualifies as a monument). Accordingly, we give no deference to the trial court and review its decision for correctness. See State v. Pena, 869 P.2d 932, 936 (Utah 1994) ("Controlling Utah case law teaches that 'correctness' means the appellate court decides the matter for itself and does not defer in any degree to the trial judge's determination of law.").

#### ANALYSIS

**8**Generally, "in interpreting legal descriptions, a call to a monument or marker takes precedence over courses and distances." Mahas v. Rindlisbacher, 808 P.2d 1025, 1026 (Utah 1990). The Smays argue that a monument need only be depicted on the subdivision plat map and need not be expressly called to for the monument to control the location of the land's boundaries. As a result, they argue that because the creek is depicted on the Margarethe subdivision plat map, the creek qualifies as a called-to monument and, thus, the location of the creek controls over the metes and bounds description. Therefore, we must determine whether the Margarethe subdivision plat map's depiction of the creek constitutes "a call to monument or marker." Id. We note both that the creek is not referred to- is not literally "call[ed] to"- as part of any legal description, as in the classic case, and that the portrayal of the creek on the plat map appears to be a rough freehand drawing rather than an exact depiction marked with measurements and angles. Nor is it tied at any point to the metes and bounds description or to the corner or boundary of any demarcated lot.

**15**In the case before us, the legal description of the land does not include the creek as a point on- or course along- the boundary, nor does it clearly designate and accurately describe the creek's location. Rather, the creek is roughly drawn on the Margarethe subdivision plat map, and its depiction is not inherently more reliable than the metes and bounds description. Here, there is no presumption that the boundaries should be formed primarily by reference to the creek's location because the creek is not actually called to in the subdivision plat, the plat map is devoid of any angles or measurements connecting the creek to the boundaries of the land, and the only indication that a creek even exists in the area is the freehand drawing of it on the plat map. Moreover, the key metes and bounds description mirrors a previous deed and corresponds perfectly with the boundaries of the neighboring subdivision.

#### CONCLUSION

**16**The creek is not mentioned as a point on, or course along, the subdivision boundary. It is only sketched onto the subdivision plat map. Given the low-key nature of the creek's depiction, it is reasonable to assume that the original subdivision developer intended for the metes and bounds description to form the boundaries of the disputed land, unvaried by their position relative to the unmentioned creek. We agree with the trial court that the metes and bounds description controls because the creek, even if regarded as a natural monument, was not called to in any of the pertinent legal descriptions.

**17**Affirmed.

See [www.utcourts.gov/opinions/appopin/clark012705.htm](http://www.utcourts.gov/opinions/appopin/clark012705.htm) for complete appeal






#### WHAT A MICKEY MOUSE MOUNUMENT!

UCLS member Dennis Carlisle contributed this photo. It was Dennis's daughter that found the monument while on a recent trip to Disneyland.

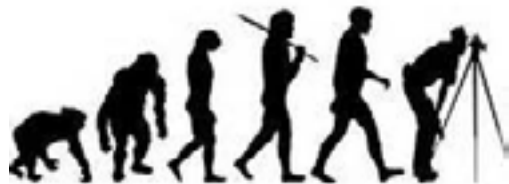
Our thanks to Dennis for sharing a wonderful picture and for raising a daughter who knows her stuff.



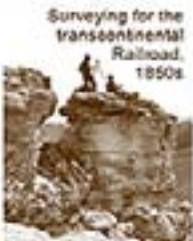
**Which North Arrow belongs to which company?**

	A	B	C	D	E	
<b>1</b> Richard Sorensen						1 = _____.
<b>2</b> NEFF Engineering						2 = _____.
<b>3</b> Consortium						3 = _____.
<b>4</b> Rosenberg Associates						4 = _____.
<b>5</b> NOVA Engineering						5 = _____.

Answers on page 7



**[A SIGNIFICANT CONTRIBUTION](#)**



The work of surveyors is unheralded – done quietly, efficiently and taken for granted. But more than great projects come from our skills. Nations have been guided by surveyors. *One* organization chronicles this story. **Surveyors Historical Society** makes a significant contribution to the collective knowledge of our profession, by preserving and perpetuating the achievements of surveyors throughout centuries. You should join.

**SURVEYORS HISTORICAL SOCIETY**  
[www.SurveyorsHistoricalSociety.com](http://www.SurveyorsHistoricalSociety.com)

### October “What is it” Competition



The Monroe LN-160X mechanical calculator was designed by Frank Baldwin and first marketed in 1911. It gradually evolved over the years to include electrically driven models. They combine the crank-driven stepped-gear mechanism with a full-keyboard, allowing for fast setting of numbers and rapid calculation.

Numbers are set on the keyboard. Pressing a key moves a mechanism to engage the number of teeth on a stepped gear corresponding with the number printed on that key. Turning the grey-handled crank on the right one way adds the set number to the accumulator register (the row of windows second from the top), and turning the crank the other way subtracts the set number from the accumulator. The crank was turned multiple times for multiplication and division.

It was much quicker and easier than performing the calculations by pencil and paper.

UCLS members suggested several names for the mechanical contraction; including TIM (time is money), CURTA, Comptometer, WANG hand-crack, and Monroe.

The first to correctly identify the calculator and also describe its purpose was Arthur LeBaron.

Arthur was followed by Corbin Van Nest, Peter Murphy, Cloey Wall, and Lynn Peterson.

#### NEWSLETTER CORRECTIONS

The last sentence in the ELECTION CONTROL article - By Randy Miller article, as published in the October Newsletter, was unintentionally deleted. The last paragraph should have been as follows:

ELECTION CONTROL - By Randy Miller

Randy Miller, PLS works for the US Forest Service in Ogden. In 2010, he ran as an independent candidate for Davis County Surveyor to punctuate the irrelevance of party affiliation to professional responsibility. **Nearly 4,000 Democrats abstained from voting in that race because they voted straight party.**

UCLS apologizes for the oversight.

#### **NSPS stolen equipment registry**

You may not be aware that NSPS offers a registry for any NSPS member to use for listing stolen equipment, and for members to check if they are approached to purchase equipment from unknown sources. Anyone wishing to utilize the NSPS registry can access it by using the link,

<http://www.nsp.us.com/index.cfm?fuseaction=Page.viewPage&pagelD=676&parentID=525&nodeID=2>



### DO YOU KNOW - ANSWER

According to the BLM manual of instructions, the proper name for that line running from one quarter corner to the opposite quarter corner is called the **Center Line** of the Section.

Although it may be a grey area, the manual does provide references to:

Center of Section Line - 0 times	Quarter Section Line - 2 times
Centerline - 4 times	Center line of section - 1 time
Center Line - 37 times	Fractional Line - 0 times

**Manual**, General Rules, Ch. 1-29. (pg. 13-14)

That the **center lines** of a regular section are to be ascertained by running straight lines from the quarter-section corner on one boundary of the section to the corresponding corner on the opposite section line.

*Our thanks to Mr. Dan Webb for the insightful training.*

### APP's for SURVEYORS



Land Surveyor is a simple tool for measuring the distance between two points using a GPS receiver on your phone.

Land Surveyor is an android app free for download available on Google play for android devices including IdeaTV (ideatv K91), Moto G (XT1028), Galaxy S4 (GT-I9508), PC- TS507N1S

#### Description

Have you ever wanted to know the distance between buildings, or to measure the length of the back yard? Land Surveyor is a simple tool for measuring the distance between two points using a GPS receiver on your phone.

#### To measure:

Wait for green light of the GPS signal indicator (Accuracy) and press "Start" at the first point. Move to the second point and tap "Finish" button.



Please let us know if you have a favorite App!



Dastardly Deed

COUNTY OF DAVIS ) ss:

I, Sheryl White, being first duly sworn, depose and say:

1. That I am a Deputy County Recorder for Davis County, State of Utah.

2. That on April 23, 1984, Virginia J. Hatton came into the Davis County Recorder's Office and presented a quit claim deed and asked that it be recorded. The quit claim deed was signed by herself, and the grantees were David Jacobs Hatton and Mary Alayne Brown, of 3563 West 4650 South, West Valley, Salt Lake County, Utah.

3. Virginia J. Hatton paid the recording fee, and the quit claim deed was entered as number 669964 in Book 986, at Page 1060 at 2:52 p.m. The document was notarized and appeared to be in proper order.

04-04-1984

4. The description on the quit claim deed was as follows:  
All of Lot 23, Glen Oaks Subdivision

5. On the very next morning after the document was recorded, namely April 24, 1984, Virginia J. Hatton again came into the Davis County Recorder's Office, indicating that she wished to add an address to the quit claim deed for taxation purposes. She then said that she wished to take the document back and did not wish to have it recorded. I told her that it had already been recorded, and she was too late in her inquiry. At that time, she took the document, tore it up and began to eat it. It was not possible to retrieve the document.

6. Due to the unique nature of the occurrence, as described above, and the fact that the document had not yet been

microfilmed, but yet an entry had been made and the document recorded, it was the opinion given to me by the County Attorney's Office that an affidavit of this type should be filed in the place of the original document.

DATED this 24th day of April, 1984.

Sheryl White  
Sheryl White  
Deputy County Recorder  
Affiant

# Utah Council of Land Surveyors

## 2015 OFFICERS NOMINATION FORM

*Nominees must be Licensed Members of UCLS*

Please nominate yourself or those you would like to see serve as officers of UCLS. The nomination ballot must be received by the UCLS Nomination Committee on, or before, **November 14, 2014**. If additional space is needed for the biography, please add a second page. Those people nominated who have no biography attached will appear that way on the voting ballot.

### STATE OFFICER

#### STATE CHAIR-ELECT

**Job Description State Chair-Elect:** Attend approximately six UCLS State Executive Board meetings held throughout the state per year. Assume State Chair position during the second year and past chair position during the third year. As State Chair attend and conduct the above mentioned board meetings, oversee all state UCLS business, appoint committee chairs, and attend or appoint an attendee to various meetings.

#### NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS REPRESENTATIVE

**Job Description NSPS Representative:** Attend applicable NSPS meetings and report to the Board of Directors about such meetings. This is a four-year position.

### CHAPTER OFFICERS

#### CHAPTER REPRESENTATIVE

**Job Description Chapter Representative:** Assist chapter president, attend chapter and board meetings, represent chapter at the state board meetings mentioned under Chair-Elect duties, serve as liaison between the state board and a UCLS committee. This is a two-year position.

#### CHAPTER SECRETARY/TREASURER

**Job Description Chapter Secretary/Treasurer:** Assist chapter president, attend chapter meetings, and keep track of records and finances. This is a two-year position.

Name \_\_\_\_\_

Office Nominated For \_\_\_\_\_

Chapter Affiliation \_\_\_\_\_

Years in Surveying \_\_\_\_\_

Years in UCLS Association \_\_\_\_\_

Accomplishments and Current Survey Activity \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Why you wish to run for office or nominate this person?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_