

**NEBRASKA REAL PROPERTY APPRAISER BOARD
CONFERENCE ROOM "C", LOWER LEVEL
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

December 19, 2013 Meeting Minutes

A. OPENING

Chairman Philip Barkley called to order the December 19, 2013 meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., in conference room "C" located on the lower level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

B. NOTICE OF MEETING

Chairman Barkley announced the notice of the meeting was duly given, posted, published and tendered in compliance with the Open Meetings Act, and all board members received notice simultaneously by email. Publication of official notice of the meeting appeared in the December 17, 2013 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this state, as required by the Open Meetings Act. The agenda was kept current in the Nebraska Real Property Appraiser Board Office and on the Board's website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public, and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Philip Barkley, Tom Kubert, Marc Woodle, Eldon Terrell, and Chris Langemeier were present. Also present were Director, Tyler Kohtz, Compliance and Licensing Specialist, Joya Weir, and Staff Assistant, Gail Parris.

ADOPTION OF THE AGENDA

Chairman Barkley reminded those present for the meeting that the agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Board Member Kubert moved to adopt the agenda as printed. Board Member Langemeier seconded the motion. With no further discussion, the motion carried with Terrell, Langemeier, Woodle, Kubert and Barkley voting aye.

The Nebraska Real Property Appraiser Board will meet in executive session for approval of applicants and enforcement matters.

Board Member Kubert moved that the Board go into executive session for the purpose of reviewing applicants for credentialing, applicants for appraisal management company registration, investigations, and other sensitive matters. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. The time on the meeting clock was 9:02 a.m. Board Member Terrell seconded the motion. The motion carried with Woodle, Langemeier, Terrell, Kubert and Barkley voting aye.

Break from 9:49 a.m. to 10:09 a.m.

Board Member Kubert moved to come out of executive session at 12:00 p.m. Board Member Langemeier seconded the motion. The motion carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

Break from 12:00 p.m. to 12:12 p.m.

F. WELCOME AND CHAIR'S REMARKS

Chairman Barkley welcomed guests to the meeting. Diane Moore was the only public member in attendance. The Chairman recognized Board Member Terrell for his service, and thanked him for taking a short term. Chairman Barkley recalled Board Member Terrell's first meeting, and stated that he was impressed with Board Member Terrell's immediate contribution. The Chairman finished by saying good bye to Board Member Terrell, and wishing him well in the future.

G. BOARD MEETING MINUTES

1. APPROVAL OF NOVEMBER 21, 2013 MEETING MINUTES

Chairman Barkley asked for any additions or corrections to the November 21, 2013 minutes. Board Member Kubert indicated that the action for 13-24 and 13-25 under Section D on Page 4 should state "Request denied." Director Kohtz informed the Board that these actions will be corrected. With no further discussion Board Member Kubert moved to adopt the minutes as amended. Board Member Langemeier seconded the motion. The motion carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

H. DIRECTOR'S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of December 19, 2013. The Director summarized each chart and reported the number of appraisers as follows: 82 total Licensed, 75 resident and 7 reciprocal; 217 total Certified Residential, 177 resident and 40 reciprocal; 385 total Certified General, 256 resident and 129 reciprocal; and 11 Registered for a total of 695 appraisers. The total number of appraisers is up 3 from November 2013, and the same as December 2012. Director Kohtz also indicated that there are 16 Trainees, which is up 6 from November 2013, and up 9 from December 2012.

In addition, the Director addressed the number of temporary permits issued. There were 3 permits issued in November 2013 compared to 15 permits issued in October 2013. As of November 30, 2013, 139 temporary permits have been issued for the calendar year. Director Kohtz indicated that the number of temporary permits issued experienced a seasonal dip, but he expects the number of permits issued to rebound in December. Compliance and Licensing Specialist Weir indicated that the number of applications received in December have already surpassed November. Finally, Director Kohtz reported 105 AMCs registered, and no new AMC applications have been submitted since the last meeting.

Director Kohtz ended the Director's Report by thanking Board Member Terrell for his service and time on the Board, and stated that it has been a pleasure working for him.

I. FINANCIAL REPORT – DECEMBER 2013

The receipts and expenditures for November were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific November expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$14,239.75 in expenditures and \$63,289.67 in revenues were reported. As of the end of November, expenses amount to 29.64 percent of the budgeted expenditures for the fiscal year; 41.92 percent of the fiscal year has passed. Considerations were made for expenditures for monthly obligations. Finally, Director Kohtz presented three charts outlining the Agency twelve month expenses and revenues, historic cash balance, and twelve month cash balance.

Board Member Kubert moved to accept and file the November 2013 Budget Status reports for receipts and expenditures for audit. Board Member Woodle seconded the motion. The motion carried with Terrell, Langemeier, Woodle, Kubert and Barkley voting aye.

Director Kohtz presented a revised FY 13-14 Budget to the Board for review. The Director summarized the changes made to the budget, and made special mention of the addition of the unemployment compensation account to prepare for potential future expenses, a shift of funds from PSL to the SOS temporary services account to pay the SOS Staff Assistant salary, which is still occupying the permanent Business and Education Specialist position, and a shift of funds from the data processing expenses account to legal services account to prepare for expenses related to the recent high enforcement activity. Board Member Kubert made a motion to approve the revised budget as presented. Board Member Terrell seconded the motion. The motion carried with Woodle, Langemeier, Terrell, Kubert and Barkley voting aye.

J. GENERAL PUBLIC COMMENTS

Chairman Barkley asked for any public comments. With no comments, the Chair proceeded to education.

K. EDUCATION

Board Member Kubert moved to approve the following education requests as listed:

1. New Qualifying Education Requests

A. Appraisal Institute

1. Residential Site Valuation & Cost Approach / 15 hours / (QE21356/L/CR005)

Seconded by Woodle. Chairman Barkley called for the vote. The motion carried with Terrell, Langemeier, Woodle, Kubert and Barkley voting aye.

Board Member Kubert moved to approve the following education requests as listed:

2. Continuing Education Renewal Requests

A. Appraisal Institute:

1. Subdivision Valuation - online / 7 hours / (C21351-I)
2. Analyzing Operating Expenses - Online / 7 hours / (C21352-I)
3. Using Your HP12C Financial Calculator - online / 7 hours / (C21353-I)
4. The FHA & the Appraisal Process / 7 hours / (C21354)
5. General Appraiser Site Valuation & Cost Approach - online / 28 hours / (C21355-I)

Seconded by Terrell. Chairman Barkley called for the vote. The motion carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

Board Member Kubert moved to approve the following instructor requests as listed:

3. Instructor Requests

A. Appraisal Institute

1. Ken Lusht
 - a. Residential Site Valuation & Cost Approach (QE21356/L/CR005)
2. Don Emerson
 - a. Subdivision Valuation – online (C21351-I)
3. William “Ted” Anglyn
 - a. Analyzing Operating Expenses - online (C21352-I)
4. Matthew Larrabee
 - a. Using Your HP12C Financial Calculator - online (C21353-I)

5. Craig Harrington
 - a. The FHA & the Appraisal Process (C21354)
6. Arlen Mills
 - a. General Appraiser Site Valuation & Cost Approach – online (C21355-I)
7. Joseph Magdziarz
 - a. The Appraiser as an Expert Witness: Preparation & Testimony (C21344)
 - b. Condemnation Appraising: Principles and Applications (C21345)
 - c. Litigation Appraising: Specialized Topics and Applications (C21346)
 - d. Uniform Appraisal Standards for Federal Land Acquisition (C21347)

B. The Moore Group, Inc.

1. Bradford Moore
 - a. Mastering Unique & Complex Property Appraisal (QE21357)
2. Diane Moore
 - a. Mastering Unique & Complex Property Appraisal (QE21357)

Seconded by Langemeier. With no further discussion, Chairman Barkley called for the vote. The motion carried with Woodle, Terrell, Langemeier, Kubert and Barkley voting aye.

L. UNFINISHED BUSINESS

1. **COUNTY APPRAISER CONTRACTS UPDATE:** Board Member Kubert informed the Board that NACO's Mass Assessment Act language has been drafted into bill format. Director Kohtz asked Board Member Kubert if he knew who was introducing the bill, if anyone. Board Member Langemeier indicated that Senator Schumacher authorized the bill drafting, and that he had a brief conversation with Senator Schumacher regarding this bill draft. Senator Schumacher informed Board Member Langemeier that the counties have to be unified before he will introduce the bill; right now they are not. Board Member Langemeier and Director Kohtz agreed that this matter should be monitored, but no action is needed at the present time.
2. **NEW CREDENTIAL UPDATE:** No update.
3. **NRPAB STANDARD 3 REVIEWER PROGRAM:** Compliance and Licensing Specialist Weir has received no additional responses from the solicited peer states. Director Kohtz indicated that work will start on this project sometime in January or February.
4. **OPEN AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS POSITION:** Director Kohtz informed the Board that any comments made to him by board members regarding this position has been passed along to the Governor's office for consideration, and he expects the Governor to make an appointment soon. There was no further discussion.

M. NEW BUSINESS

1. **APPRAISAL BUZZ ARTICLE – COMPUTER AIDED APPRAISING:** Director Kohtz presented an Appraisal Buzz article for the Board to review. The Director indicated that occasionally there is something written in the Appraisal Buzz that catches his attention. Director Kohtz summarized the article, and expressed his concern with the number of investigations that could result from appraisers relying on the computer-aided appraising technology outlined in the article. Director Kohtz went on to say that such software could become a crutch, and result in careless analysis by appraisers believing that the software is doing the work correctly. Board Member Woodle brought attention to the fact that the author is the CEO for a company that develops appraisal software. Chairman Barkley added that he doesn't have concern with form filling software if the information is verified and used correctly. The Board agreed that appraisal software needs to be used with caution by those that know how to use it.

2. **TRAINEE REAL PROPERTY APPRAISER IDENTIFICATION IN REPORTS – ATTRIBUTION VS. SIGNATURE:** Board Member Kubert brought attention to a question that came up. Are supervisory appraisers required to disclose that an individual is a trainee real property appraiser in an appraisal report if attribution is given to that trainee real property appraiser. The Board reviewed the language found in Neb. Rev. Stat. §76-2229, and concluded that an individual that holds a trainee real property appraiser credential must indicate that he or she holds a credential whenever he or she identifies himself or herself as a trainee real property appraiser, including on all reports which are co-signed by the trainee real property appraiser. There is no language in the Nebraska Real Property Appraiser Act that requires a supervisory appraiser to identify an individual as a trainee real property appraiser in a report.
3. **2014 BOARD MEETING SCHEDULE:** A calendar with the state holiday dates marked off was presented to the Board for selection of the 2014 regular board meeting dates. A discussion took place regarding the Board's current standard of holding the meeting on every third Thursday of each month. No board member saw a need to make a change to the standard. Board Member Kubert made a motion to schedule the 2014 regular board meetings on the third Thursday of each month unless otherwise changed due to unforeseen events. The motion was seconded by Terrell. Chairman Barkley called for a vote, and the motion carried with Woodle, Langemeier, Terrell, Kubert and Barkley voting aye.
4. **BUSINESS AND EDUCATION SPECIALIST POSITION:** The Board reviewed the job description of the Business and Education Specialist position. Chairman Barkley expressed concern about the detailed knowledge required of the applicant, and the fact that knowing USPAP is a requirement for the position. Director Kohtz indicated that he will remove the "knowledge of USPAP" as a requirement, and followed by saying that no candidate is going to meet all the requirements of the position, but the idea is to find the best fit for this position, which requires a diverse background. Some board members also communicated concern that the detailed description may scare some potential applicants away, and asked the Director if he has any worries about it. Director Kohtz responded that he does not. Board Member Langemeier indicated that if a suitable candidate is not found in the pool of applicants, the Board can repost the job with a scaled back description. Board Member Kubert moved to authorize Director Kohtz to hire for the S01842 Staff Assistant II Business and Education Specialist position. Board Member Langemeier seconded the motion. The motion carried with Terrell, Langemeier, Woodle, Kubert and Barkley.

N. LEGISLATIVE REPORT AND BUSINESS

1. **2015 LAW REWRITE UPDATE:** Director Kohtz provided an update to the Board regarding the three bill drafts. Senator Gloor will be introducing REQ03544 concerning the AQB criteria changes, and Senator Christensen will be introducing REQ03543 concerning the changes to the Real Property Appraiser Act, and REQ03545 concerning the changes to the AMC Registration Act. Director Kohtz thanked Board Member Langemeier for his work during the last month. Board Member Langemeier worked with both Senator Gloor and Senator Christensen to get the bill drafts introduced. The Director indicated that he will be meeting with Dan Wiles in Senator Christensen's office tomorrow to discuss preparation of REQ03543 and REQ03545 for introduction, and is currently working with Bill Marienau in Senator Gloor's office to prepare REQ03544 for introduction.

O. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. NEW BOARD POLICIES:** The Board reviewed amended Board Policies 13-04 and 13-05. 13-04 establishes a minimum cash fund balance for the Real Property Appraiser Fund, and 13-05 establishes a minimum cash fund balance for the AMC Registration Fund. Both policies were updated to reflect the expenditures for FY 13-14. Board Member Kubert made a motion to approve Board Policies 13-04 and 13-05 as amended. The motion was seconded by Langemeier. With no further discussion, the vote carried with Woodle, Terrell, Langemeier, Kubert and Barkley voting aye.

- b. CURRENT BOARD POLICIES:** No discussion took place.

P. OTHER BUSINESS

- 1. CONFERENCES/EDUCATION:** Chairman Barkley recognized Compliance and Licensing Specialist Weir's recent attendance and successful completion of the Basic Appraisal Procedures course.

- 2. MEMOS FROM THE BOARD:** Director Kohtz asked the Board for permission to send a Memo From the Board highlighting the Board's accomplishments during the past year. Board Member Kubert made a motion to approve a Memo From the Board highlighting the Board's accomplishments during the past year. The motion was seconded by Woodle, and carried with Terrell, Langemeier, Woodle, Kubert and Barkley voting aye.

Board Member Kubert moved that the Board go back into executive session for the purpose of discussing applicants for credentialing, investigations and personnel matters. The time on the meeting clock was 1:06 p.m. Board Member Terrell seconded the motion. The motion carried with Woodle, Langemeier, Terrell, Kubert and Barkley voting aye.

Board Member Kubert moved to come out of executive session at 1:19 p.m. Board Member Terrell seconded the motion. The motion carried with Langemeier, Woodle, Terrell, Kubert and Barkley voting aye.

C. CONSIDERATION OF APPLICANTS

1. CREDENTIALING AS NEBRASKA REAL PROPERTY APPRAISER:

Board Member Kubert moved to take the following actions for the applicants as listed:

- T2013006 / Additional supervisory appraiser approved.**
- T13010 / Approved as trainee real property appraiser.**
- T13011 / Approved as trainee real property appraiser.**
- T13012 / Approved as trainee real property appraiser.**
- T13013 / Approved as trainee real property appraiser.**
- T13014 / Approved as trainee real property appraiser.**
- T13015 / Approved as trainee real property appraiser.**
- T13016 / Approved as trainee real property appraiser.**
- T13017 / Approved as trainee real property appraiser.**
- T13018 / Approved as trainee real property appraiser.**

Board Member Langemeier seconded the motion. Motion carried with Woodle, Terrell, Langemeier, Kubert and Barkley voting aye.

Board Member Kubert moved to take the following actions for credentialing applicants as listed:

CR13017 / Approved to sit for exam and select three reports for Standard 3 review.

CR13016 / Approved to sit for exam and select five reports for review. Authority is granted to one board member to review reports and determine if reports shall be sent for Standard 3 review or sent back to the Board for review.

CG13023R / Approved

CG13024R / Approved

CG13025R / Approved

CG13022 / Hold

CR13015 / Hold

L13002 / Hold

CR13006 / Hold

CR13007 / Hold

CR13014 / Hold

CR13009 / Hold

CG631 / Hold

Board Member Woodle seconded the motion. Motion carried with Langemeier, Terrell, Woodle, Kubert and Barkley voting aye.

Board Member Woodle moved to take the following action for the credentialing applicant as listed:

CG13010 / Approved

Board Member Langemeier seconded the motion. Motion carried with Terrell, Langemeier, Woodle and Barkley voting aye. Kubert abstained.

Board Member Kubert moved to take the following action for real property appraiser credential renewal applicants as listed:

CG920657 / Approved; send advisory letter.

CR960212R / Approved; send advisory letter.

L920168 / Approved; send advisory letter.

CR970116 / Approved; send advisory letter.

Board Member Woodle seconded the motion. Motion carried with Langemeier, Terrell, Woodle, Kubert and Barkley voting aye.

2. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:

Board Member Kubert moved to take the following action for the AMC renewal applicant as listed:

NE2012004 / Approved; send letter requesting that organization provide copies of all final orders pertaining to any pending litigation.

Board Member Langemeier seconded the motion. Motion carried with Terrell, Woodle, Langemeier, Kubert and Barkley voting aye.

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Kubert moved to take the following enforcement actions:

11-12 / Hold
11-26 / Close
12-06 / Hold
12-11 / Hold
12-20 / Hold
12-21 / Hold
12-27 / Hold
13-06 / Hold
13-07 / Hold
13-09 / Hold
13-10 / Hold
13-14 / Hold
13-15 / Hold
13-20 / Hold

Board Member Terrell seconded the motion. Motion carried with Langemeier, Woodle, Terrell, Kubert and Barkley voting aye.

Board Member Woodle moved to take the following enforcement actions:

12-24 / Hold
12-29 / Hold
12-31 / Invite to informal meeting.
13-18 / Hold
13-19 / Hold
13-27 / Open investigation 13-27, and send appraisal report and workfile for Standard 3 review. Board Member Kubert appointed as Investigating Board Member.

Board Member Langemeier seconded the motion. Motion carried with Terrell, Woodle, Langemeier and Barkley voting aye. Kubert abstained.

Vice Chair Kubert moved to take the following enforcement actions:

13-13 / Hold
13-23 / Offer Consent Agreement requiring Respondent to complete and successfully pass examination for a 15-Hour USPAP course, a Residential Site Valuation and Cost Approach course of not less than 15 hours, an Advanced Residential Applications and Case Studies course of not less than 15 hours, pay \$750.00 for costs associated with investigation within 60 days of execution of agreement, and submit a quarterly log for one year beginning three months after the execution of the agreement. Respondent shall be responsible for any costs associated with any appraisal reports selected from the logs and sent for Standard 3 review, and all submissions must be compliant with Nebraska law.
13-24 / Forward Respondent's response to Board's attorney for recommendation.
13-25 / Forward Respondent's response to Board's attorney for recommendation.

13-26 / Offer Consent Agreement requiring Respondent to complete and successfully pass examination for an appraisal report writing course of not less than 30 hours, pay \$750.00 for costs associated with investigation within 60 days of execution of agreement, and submit a quarterly log for one year beginning three months after the execution of the agreement. Respondent shall be responsible for any costs associated with any appraisal reports selected from the logs and sent for Standard 3 review, and all submissions must be compliant with Nebraska law. Respondent shall also pass the Certified General Appraiser Examination as administered by Applied Measurement Professionals, Inc. within six months of execution of agreement. Respondent is allowed no more than three attempts to pass the examination within the six month period.

Board Member Woodle seconded the motion. Motion carried with Terrell, Woodle, Langemeier and Kubert voting aye. Barkley abstained.

Vice Chair Kubert moved to take the following enforcement actions:

13-21 / Request list of all active legal cases and appraisal assignments in which Respondent is involved in within the State of Nebraska.

Board Member Langemeier seconded the motion. Motion carried with Terrell, Langemeier, Kubert and Barkley voting aye. Woodle abstained.

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed the response received from individual concerning inquiry I13-4.

The Board discussed the response received from individual concerning inquiry I13-5.

The Board discussed the response received from individual concerning inquiry I13-6.

The Board discussed the response received concerning inquiry I13-7.

Inquiry number I13-17 was assigned to the matter previously discussed as Item 5. The Board reviewed and discussed the response received.

The Board received information that a non-credentialed individual was advertising as a Nebraska credentialed real property appraiser on an organization's website without first obtaining a credential issued by the Board. This individual may be in violation of Neb. Rev. Stat. §76-2220 and §76-2246. This matter was assigned inquiry number I13-18, and a letter was sent to the individual requesting a response. The Board discussed the two responses received concerning this matter.

The Board discussed Inquiry I13-14.

The Board discussed information provided by the organization concerning Inquiry I13-15.

The Board reviewed an appraisal log submitted by Nebraska credentialed appraiser at the Board's request. No action taken.

The Board discussed personnel matters.

The Board discussed information received at the Board's office concerning a Nebraska credentialed appraiser's concerns with the Board's operations and that appraiser's actions related to the concerns.

Vice Chair Kubert moved to take the following actions for the above mentioned matters:

- I13-4 / Send cease and desist letter.**
- I13-5 / Close**
- I13-6 / Hold**
- I13-7 / Hold**
- I13-17 / Close**
- I13-18 / Close**
- I13-14 / Close**
- I13-15 / Send letter requesting additional details.**
- Item 10 / Director draft letter concerning personnel matter discussed, which will be signed by, and sent on the behalf of, the Board Chairman.**
- Item 11 / Director draft letter in response to Nebraska credentialed appraiser's concerns with the Board's operations.**

Board Member Terrell seconded the motion. Motion carried with Woodle, Langemeier, Terrell, Kubert and Barkley voting aye.

P. NEXT MEETING DATE – JANUARY 16, 2014, LOWER LEVEL “F” NSOB

Q. ADJOURNMENT

Board Member Terrell moved to adjourn the meeting. Board Member Woodle seconded the motion. Motion carried with Langemeier, Terrell, Woodle, Kubert and Barkley voting aye.

At 1:37 p.m. Chairman Barkley adjourned the December 19, 2013 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on January 6, 2013, in compliance with Nebraska Statute §84-1413 (5).