

**NEBRASKA REAL PROPERTY APPRAISER BOARD
CONFERENCE ROOM 4D, FOURTH FLOOR, 1526 BUILDING
1526 K STREET, LINCOLN, NE**

January 22, 2015 Meeting Minutes

Swearing in of new Board Member Sandra Gutwein took place prior to the start of the meeting.

A. OPENING

Vice-chairman Thomas Kubert called to order the January 22, 2015 meeting of the Nebraska Real Property Appraiser Board at 9:05 a.m., in conference room “4D” located on the fourth floor of the 1526 Building, 1526 K Street, Lincoln, Nebraska.

B. NOTICE OF MEETING

Vice-chairman Kubert 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 January 19, 2015 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 Thomas Kubert, Marc Woodle, Christopher Langemeier, Larry Saxton, and Sandra Gutwein were present. Also present were Director, Tyler Kohtz, and Compliance and Education Specialist, Anthony Dreesen.

ADOPTION OF THE AGENDA

Vice-chairman Kubert 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 Woodle moved to adopt the agenda as printed. Board Member Saxton seconded the motion. With no further discussion, the motion carried with Langemeier, Woodle, Saxton, Gutwein, and Kubert voting aye.

C. ELECTION OF OFFICERS

Board Member Langemeier moved to nominate Thomas Kubert as Chairman of the Board for 2015, and Marc Woodle as Vice-chairman of the Board for 2015. Board Member Saxton seconded the motion. With no further discussion, the motion carried with Saxton, Langemeier, Gutwein, Woodle and Kubert voting aye.

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

Board Member Woodle 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 9:08 a.m. Board Member Saxton seconded the motion. The motion carried with Gutwein, Saxton, Langemeier, Woodle, and Kubert voting aye.

Break from 10:20 a.m. to 11:00 a.m.

William G. Blake appeared before the Board

Board Member Woodle moved to come out of executive session at 12:09 p.m. Board Member Langemeier seconded the motion. The motion carried with Gutwein, Saxton, Langemeier, Woodle, and Kubert voting aye.

H. WELCOME AND CHAIR'S REMARKS

Chairman Kubert welcomed the general public, board members and staff. Diane Moore was the only member of the Public in attendance.

I. BOARD MEETING MINUTES

1. APPROVAL OF DECEMBER 18, 2014 MEETING MINUTES

Chairman Kubert asked for any additions or corrections to the December 18, 2014 minutes. With no further discussion Board Member Saxton moved to adopt the December 18, 2014 meeting minutes as presented. Board Member Langemeier seconded the motion. The motion carried with Gutwein, Langemeier, Saxton, Woodle and Kubert voting aye.

J. DIRECTOR'S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of January 22, 2015. The Director summarized each chart and reported the number of appraisers as follows: 67 total Licensed, 64 resident and 3 reciprocal; 216 total Certified Residential, 178 resident and 38 reciprocal; 364 total Certified General, 239 resident and 125 reciprocal; and 0 Registered for a total of 647 appraisers. The total number of appraisers is down 70 from December 2014, and up 2 from January 2014. The Director also informed the Board that there are 54 Trainees, which is down 1 from December, and up 29 from January 2014.

In addition, the Director addressed the number of temporary permits issued. There were 17 permits issued in December compared to 16 permits issued in November. As of December 31, 2014, 142 temporary permits have been issued for the calendar year. December was the sixth straight month with ten or more temporary permits issued. After the slow start, the number of permits issued each month really picked up during the second half of the year. Finally, Director Kohtz reported 112 AMCs registered, and one new AMC application has been submitted since the last meeting.

Director Kohtz finished by welcoming new Board Member Gutwein, and stated that he looks forward to serving her.

K. FINANCIAL REPORT AND CONSIDERATIONS– JANUARY 2015

1. APPROVAL OF DECEMBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for December were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific December expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$31,827.18 in expenditures and \$105,591.19 in revenues were reported. As of the end of December, expenses amount to 50.83 percent of the budgeted expenditures for the fiscal year; 50.41 percent of the fiscal year has passed. Finally, Director Kohtz presented three charts outlining the Agency twelve month expenses and revenues, historic cash balance, and twelve month cash balance.

Board Member Langemeier moved to accept and file the December 2014 budget reports for audit. Board Member Saxton seconded the motion. The motion carried with Woodle, Langemeier, Saxton, Gutwein and Kubert voting aye.

2. FY14-15 REVISED BUDGET

Director Kohtz presented a revised FY 2014-15 budget to the board for review. The Director outlined the changes made to the current budget. Specifically, funds were reallocated to address the high expenditures in Other Contractual Services and Legal Services. The Other Contractual Services expenses have increased sharply due to a high number of applicants attempting to qualify for credentialing under the pre-2015 requirements. The high Legal Services expenses are due to a costly hearing. Director Kohtz informed the Board that this is a minimalist budget developed to make up lost ground in funding. The budget includes no non-essential travel, no overtime or comp time, no education availability, only essential purchases will be considered, and the anticipated relocation date is moved back to June 1, 2015. Director Kohtz finished by stating that funding will be restored to accounts based on the progress made during the next few months. Travel and the relocation funding will be the first priorities. Board Member Saxton made a motion to approve the amended FY 2014-15 budget as presented. The motion was seconded by Board Member Woodle, and carried with Langemeier, Gutwein, Saxton, Woodle, and Kubert voting aye.

3. FY14-15 BUDGET DEFICIT REQUEST

Director Kohtz presented an FY 2014-15 Budget deficit request made to the Legislative Fiscal Office on January 8, 2015 in the amount of \$25,000.00 to the Board for review. The Director outlined the purpose of the request, and the reason for the timing. The request for funding is to account for the high Other Contractual Services expenses. If approved, the deficit funding will be applied to Other Contractual Services, and the re-allocated funding will be restored to the intended accounts.

4. 2015-17 BIENNIAL BUDGET REQUEST UPDATE

Director Kohtz presented to the Board documentation sent to the Legislative Fiscal Office for amendment of the Board's 2015-17 Biennial Budget Request based on discussions that took place during the December meeting. The amendment includes an increase of \$1,117.00 for each fiscal year for the difference between the estimated office square footage and the 1628 actual square footage, and an increase of \$79,409.00 for completion of the database. In addition, Director Kohtz included an increase of \$16,000.00 to Other Contractual Services for each fiscal year based on the revised projections developed while preparing the FY 2014-15 Budget Deficit Request. Director Kohtz also informed the Board that its hearing before the Appropriations Committee will be on Tuesday, February 24, 2015.

L. GENERAL PUBLIC COMMENTS

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

M. EDUCATION

Board Member Woodle moved to take the following actions on education and instructor requests as listed:

Continuing Education Renewal Activities and Instructors

1. Appraisal Institute
 - a. Online General Appraiser Sales Comparison Approach (C0009-I)/27 Hours - *Approve*
 1. Kenneth Foltz- *Approve*

New Continuing Education Activities and Instructors

1. The Moore Group
 - a. Understanding and Using Comparable Transactions (C21503) /7 Hours - *Approve*
 1. Bradford Moore - *Approve*
 2. Diane Moore - *Approve*

2. American Society of Appraisers
 - a. Allocating Components in Going Concerns Appraisals (C21504)/24 Hours - **Approve**
 1. Robert Schlegel - **Approve**
 2. L. Deane Wilson - **Approve**
3. ASFMRA
 - a. Income Approach Applications (C21505)/4 Hours- **Approve**
 1. Chris Greenwalt - **Approve**
4. Appraisal Institute
 - a. Two Day Advanced Income Capitalization – A (C21506)/14 Hours- **Approve**
 1. Ron DeVries - **Approve**
 - b. Two Day Advanced Income Capitalization – B (C21507)/14 Hours - **Approve**
 1. Ron DeVries - **Approve**
 - d. Valuation by Comparison: Residential Analysis and Logic (C21516)/7 Hours- **Approve**
 1. Larry Wright - **Approve**
5. NAIFA
 - a. Identifying Comparable Properties (C21517)/7 Hours - **Approve**
 1. Mike Orman - **Approve**
 - b. Defensible Appraisal Practice (C21518)/7 Hours- **Approve**
 1. Mike Orman- **Approve**

New Qualifying Education Activities and Instructors

1. Appraisal Institute
 - a. General Appraiser Income Approach Part 1 (QE21508)/30 Hours - **Approve**
 1. Joseph Magdziarz- **Approve**
 - b. General Appraiser Income Approach Part 2 (QE21509)/30 Hours - **Approve**
 1. Joseph Magdziarz- **Approve**
 - c. General Appraiser Market Analysis and Highest & Best Use (QE21510)/30 Hours - **Approve**
 1. Joseph Magdziarz- **Approve**
 - d. General Appraiser Site Valuation and Cost Approach (QE21512)/30 Hours - **Approve**
 1. Joseph Magdziarz - **Approve**
 - e. Residential Site Valuation and Cost Approach (QE21513)/15 Hours - **Approve**
 1. Joseph Magdziarz- **Approve**
 - f. Residential Sales Comparison and Income Approach (QE21514)/30 Hours- **Approve**
 1. Joseph Magdziarz - **Approve**
 - g. General Appraiser Sales Comparison Approach (QE21515)/30 Hours - **Approve**
 1. Joseph Magdziarz- **Approve**

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

Board Member Woodle moved to approve the following education request as a Nebraska 7-Hour Report Writing Update Course, and approve the instructor:

6. Appraisal Institute
 - c. Effective Appraisal Writing (C21511)/7 Hours
 1. Alan Blankenship

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

N. UNFINISHED BUSINESS

1. **NRPAB STANDARD 3 REVIEW FORM UPDATE:** Compliance and Education Specialist Dreesen provided an update regarding the progress of the 2014-15 USPAP Standard 3 Compliance Review Report form. A brief discussion took place. Chairman Kubert asked that the comment section at the beginning be removed because it is the same as the summary at the back of the form.

O. NEW BUSINESS

1. **APPRAISAL BUZZ ARTICLE – COLLATERAL UNDERWRITER AND CHICKEN LITTLE:** Director Kohtz presented an Appraisal Buzz article titled “Collateral Underwriter and Chicken Little” to the Board for review. The Director indicated that he and Chairman Kubert had a conversation concerning a potential increase in enforcement actions due to Collateral Underwriter. Chairman Kubert asked if any other board members had an opinion on Fannie Mae’s Collateral Underwriter. Board Member Saxton indicated that he seen valid points made by both sides of the conversation. Board Member Saxton continued by saying that nothing will really be known for some time; we will have to wait and see. Board Member Gutwein indicated that she does not like the Collateral Underwriter because it attempts to make appraisal black and white. Chairman Kubert added that the UAD Form was the precursor, and now Fanny Mae has the data it wanted. Board Member Gutwein ended the conversation by saying that this will make reports longer because more information must be included.
2. **BUSINESS AND LICENSING SPECIALIST POSITION:** Director Kohtz provided an update to the Board regarding the Business and Licensing Specialist hiring process. The Director informed the Board that this is the overall most talented pool that he has seen for this position. Interview Scenarios were sent out to twenty-five percent of the applicants, and so far, three have been selected for interviews. Director Kohtz indicated that he is waiting for one Interview Scenario to be returned before finalizing the interview schedule. The Director finished by informing the Board that he plans to make a hire within the next week.

P. LEGISLATIVE REPORT AND BUSINESS

1. **Legislative Update:** Director Kohtz informed the Board that Senator Jerry Johnson introduced LB139 concerning changes to the Real Property Appraiser Act on January 9, 2015. The hearing before the Banking, Commerce, and Insurance Committee is scheduled for January 27, 2015. Director Kohtz also informed the Board that he had a discussion with Steven Schulz from the University of Nebraska at Omaha Real Estate Program. The same concerns found in LB685 last year exist for him, but he indicated that he will work with the Board regarding any of his questions.
2. **TITLE 298:** No discussion.

Q. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

a. Current Board Policies: No discussion.

b. New Board Policies: Director Kohtz presented new Board Policy 15-01 concerning employee recognition to the Board for review. The Director informed the Board that the agency is required to have an up-to-date policy regarding employee recognition. The Board's current policy was drafted in 1991 and is no longer applicable. With no further discussion, Board Member Woodle made a motion to approve Board Policy 15-01 as presented. The motion was seconded by Langemeier, and carried with Woodle, Langemeier, Saxton, Gutwein and Kubert voting aye.

2. APPRAISER FORMS AND PROCEDURES

a. Reciprocal Applicant Appraisal Reporting Form: Director Kohtz presented the "Reciprocal Applicant Appraisal Reporting Form" to the Board for review. With no further discussion, Chairman Kubert called for a vote. Board Member Woodle moved to approve the "Reciprocal Applicant Appraisal Reporting Form" as presented. The motion was seconded by Saxton, and carried with Gutwein, Saxton, Langemeier, Woodle and Kubert voting aye.

R. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

1. CONFERENCES/EDUCATION: The Appraisal Foundation recently released its 2015 schedule for Level 1 and Level 2 Investigator Training. The Appraisal Foundation will reimburse attendees for all travel, meals and lodging. The Board is allowed to send two individuals to each session. If more spaces are available after the deadline for registration closes, then more individuals may be able to attend each session. Level 1 will be held March 9th through 11th in San Antonio, Texas. Director Kohtz requested that Compliance and Education Specialist, Anthony Dreesen, attend. Board Member Saxton asked Director Kohtz if he has attended the training. The director responded that he has not. Board Member Saxton followed by asking the Director if there is a reason why he should not go. Director Kohtz responded that he can attend if that is what the Board wants. Chairman Kubert asked if there would be an issue with attending this, then turning around and attending AARO in the Spring. Director Kohtz indicated that he would prefer one or the other, and added that the current budget does not provide for travel expenses to AARO. The Board agreed that both the Compliance and Education Specialist and Director should attend. Board Member Saxton made a motion to approve both the Compliance and Education Specialist and the Director for Level 1 Investigator Training in San Antonio, Texas. Langemeier seconded the motion. The motion carried with Woodle, Saxton, Langemeier, Gutwein and Kubert voting aye.

Chairman Kubert asked when the ASC Audit takes place, and if it would cause any concern for those attending Investigator Training. Director Kohtz checked the dates of the audit, which takes place from March 17th through 19th. Director Kohtz indicated that the week before will be very busy for the office, and requested that he not attend the Level 1 Investigator Training in San Antonio, Texas. The Board agreed that preparation for the audit is more important. Board Member Saxton made a motion to amend the previous motion to not include the Director. The amendment was seconded by Woodle, and carried with Woodle, Langemeier, Saxton, Gutwein and Kubert voting aye.

2. MEMOS FROM THE BOARD: No discussion.

3. APPRAISAL SUBCOMMITTEE

- a. **ASC Advisory Committee for the Development of Regulations October Minutes:** Director Kohtz presented the October meeting minutes of the ASC Advisory Committee for the Development of Regulations to the Board for review. Director Kohtz indicated that he would like to the Board to be aware of what the ASC is working in for the future, and has concerns with some of the discussions during the October meeting. The Director indicated that his first concern was with the Appraisal Institute's view that formal rulemaking should not be utilized to codify the ASC's policies. There has been some discussion about this recently, and he feels that the ASC should have to codify its rules to allow for fair debate and enforcement. Right now, there is no formal route to challenge any ASC policies.

Director Kohtz also brought attention to a matrix being developed to address appraiser program violations. One of the topics discussed concerns disciplinary action taken by another State, and would make it a violation to not take disciplinary action against an appraiser if another State took disciplinary action against the appraiser. Multiple instances of this may lead to de-recognition of a State's program. Other things discussed that could lead to de-regulation include not transmitting a roster listing individuals that received a credential monthly, not reporting serious disciplinary action within five business days and all disciplinary action within thirty days, and not remitting registry fees in a timely fashion.

Director Kohtz also brought attention to a positive. There was discussion regarding the use of grant money. Some suggestions included an allocation to States for compliance reviews, online licensing and compliance training programs, and Title XI training.

4. APPRAISAL FOUNDATION

- a. **Fourth Exposure Draft of Proposed Changes for the 2016-17 Edition of the Uniform Standard of Professional Appraisal Practice:** Director Kohtz presented the Fourth Exposure Draft of Proposed Changes for the 2016-17 Edition of the Uniform Standard of Professional Appraisal Practice to the Board for review. Director Kohtz indicated that a previous conversation took place regarding the use of drafts in USPAP; this exposure draft has all language referencing drafts removed. Director Kohtz asked if any board members had comments. There was no further discussion.

D. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER:

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

L15001R / Approve as Licensed Real Property Appraiser.

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

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

CG15001R / Approve as Certified General Real Property Appraiser.

CG15002R / Approve as Certified General Real Property Appraiser.

CG15003R / Approve as Certified General Real Property Appraiser.

CG15004R / Approve as Certified General Real Property Appraiser.

CG15005R / Approve as Certified General Real Property Appraiser.

CG15006R / Approve as Certified General Real Property Appraiser.

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

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

CG14021 / Hold
CG14024 / Hold

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

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

CG14041 / Hold
CR14019 / Approve as Certified Residential Real Property Appraiser.
CR14016 / Approve as Certified Residential Real Property Appraiser; send redacted copy of Standard 3 reviews.
CR14010 / Deny
CR14025 / Hold

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

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

CG14037 / Hold
CR14022 / Send redacted copy of Fowler Avenue Standard 3 review and request a written response.

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

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

CR14020 / Approve as Certified Residential Real Property Appraiser.
CR14026 / Request complete report and workfile for Gretna, NE appraisal.
CR14017 / Send redacted copy of Standard 3 reviews and request written response within 10 days; invite to advisory meeting.

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

Board Member Woodle moved to approve all renewal applications received at that Board's office postmarked between January 1, 2015 and January 20, 2015 with advisory letters. The motion was seconded by Langemeier, and carried with Woodle, Langemeier, Saxton, Gutwein and Kubert voting aye.

E. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

NE2015001 / Approve

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

F. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Woodle moved to take the following enforcement action:

15-01 / Hold

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

Board Member Woodle moved to take the following enforcement actions:

- 13-18 / Hold**
- 13-19 / Dismiss all charges.**
- 13-23 / Hold**
- 13-24 / Hold**
- 13-25 / Hold**
- 13-26 / Hold**
- 14-15 / Hold**
- 14-16 / Hold**
- 14-17 / Hold**
- 14-18 / Hold**
- 14-19 / Hold**
- 14-20 / Hold**
- 14-22 / Hold**
- 14-23 / Hold**
- 14-24 / Hold**
- 14-26 / Hold**
- 14-27 / Hold**
- 14-34 / Hold**

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

Board Member Langemeier moved to take the following enforcement actions:

- 13-21 / Hold**
- 14-32 / Send redacted copy of Standard 3 review, request written response to review within 10 days, and invite to informal.**
- 14-33 / Send redacted copy of Standard 3 review, request written response to review within 10 days, and invite to informal.**

- 14-35 / Hold**

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

G. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS:

Personnel matters were discussed.

Vice Chair Woodle moved to take the following actions for other executive session items:

I14-32 / Hold

I14-33 / Hold

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

S. ADJOURNMENT

Board Member Woodle moved to adjourn the meeting. Board Member Langemeier seconded the motion. Board Member Saxton requested that the Board go back into executive session to clarify an investigative matter. Motion was withdrawn by Woodle.

Board Member Langemeier moved that the Board go back into executive session for the purpose of reviewing investigations and other sensitive matters. The time on the meeting clock was 1:50 p.m. Board Member Woodle seconded the motion. The motion carried with Woodle, Langemeier, Saxton, Gutwein and Kubert voting aye.

Board Member Woodle moved to come out of executive session at 2:02 p.m. Board Member Langemeier seconded the motion. The motion carried with Langemeier, Woodle, Saxton, Gutwein and Kubert voting aye.

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

At 2:03 p.m. Chairman Kubert adjourned the January 22, 2015 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on February 5, 2015, in compliance with Nebraska Revised Statute §84-1413 (5).