

**NEBRASKA REAL PROPERTY APPRAISER BOARD
NRPAB OFFICE MEETING ROOM, FIRST FLOOR
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

August 20, 2015 Meeting Minutes

A. OPENING

Chairman Thomas Kubert called to order the August 20, 2015 meeting of the Nebraska Real Property Appraiser Board at 9:04 a.m., in the Nebraska Real Property Appraiser Board meeting room located on the first floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

B. NOTICE OF MEETING

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 August 17, 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, Compliance and Education Specialist, Grant Krieger, and Business and Licensing Specialist, Jayme Kienholz-Howsden.

ADOPTION OF THE AGENDA

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 Langemeier 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 9:06 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 10:30 a.m.

Board Member Langemeier moved to come out of executive session at 10:59 a.m. Board Member Saxton seconded the motion. The motion carried with Woodle, Langemeier, Saxton, Gutwein, and Kubert voting aye.

G. WELCOME AND CHAIR'S REMARKS

Chairman Kubert welcomed all. Diane Moore and Robin Kilgore were the only members of the public in attendance.

H. BOARD MEETING MINUTES

1. APPROVAL OF JULY 22, 2015 MEETING MINUTES

Chairman Kubert asked for any additions or corrections to the July 22, 2015 minutes. With no further discussion, the Chairman called for a vote. Board Member Woodle moved to adopt the July 22, 2015 meeting minutes as presented. Board Member Langemeier seconded the motion. The motion carried with Langemeier, Saxton, Gutwein, Woodle, and Kubert voting aye.

I. DIRECTOR'S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of August 20, 2015. The Director summarized each chart and reported the number of appraisers as follows: 67 total Licensed, 63 credentialed through education, experience, and examination, and 4 through reciprocity; 225 total Certified Residential, 184 credentialed through education, experience, and examination, and 41 through reciprocity; 397 total Certified General, 248 through education, experience, and examination, and 149 through reciprocity. In addition, there are 0 Registered and 58 Trainees currently credentialed.

As of August 20, 2015, a total of 689 appraisers, not including the Trainee classification, were reported by the Director, up 2 from July, and down 4 from August 2014. A total of 747 appraisers, including the Trainee classification, were also reported by the Director, up 4 from July, and up 2 from August 2014. A total of 495 appraisers credentialed through education, experience, and examination, not including the Trainee classification, was reported, which is down 9 from August 2014, and a total of 194 appraisers credentialed through reciprocity was reported, which is up 5 from August 2014.

In addition, the Director addressed the number of temporary permits issued. There were 8 permits issued in July compared to 14 permits issued in June. As of July 31, 2015, 99 temporary permits have been issued for the calendar year. Finally, Director Kohtz reported 103 AMCs registered.

The Director welcomed new Compliance and Education Specialist Krieger to the team.

J. FINANCIAL REPORT AND CONSIDERATIONS – AUGUST 2015

1. APPROVAL OF JULY RECEIPTS AND EXPENDITURES

The receipts and expenditures for July were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific July expenses, and brought attention to the encumbered data processing expense of \$7,552.73 for June database projects, the encumbered office supply expense of \$1,519.73 for reference books and other office supplies, the encumbered non-capitalized equipment purchase amount of \$1,076.72 for the board meeting room projector, and the encumbered other operating expense of \$1,366.25 for relocation costs. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$36,040.53 in expenditures and \$7,805.10 in revenues were reported. As of the end of July, expenses amount to 8.11 percent of the budgeted expenditures for the fiscal year; 8.49 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 Woodle moved to accept and file the July 2015 budget reports for audit. Board Member Saxton seconded the motion. The motion carried with Gutwein, Langemeier, Woodle, Saxton, and Kubert voting aye.

K. GENERAL PUBLIC COMMENTS

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

L. EDUCATION

Board Member Woodle moved to approve the following education activities and instructors as listed:

QUALIFYING EDUCATION ACTIVITY

American Society of Farm Managers and Rural Appraisers

Foundations of Appraisal Review (QE21536)/40 Hours

CONTINUING EDUCATION RENEWAL ACTIVITIES AND INSTRUCTORS

Appraisal Institute

Case Studies in Appraising Green Residential Buildings (C21047)/7 Hours-Sandra Adomatis

Introduction to Green Buildings: Principles & Concepts (C21048)/7 Hours-Sandra Adomatis

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

McKissock, LP

Avoiding Mortgage Fraud for Appraisers (C21549-I)/7 Hours - Dan Bradley

Expert Witness Testimony: To Do or Not to Do (C21550-I)/4 Hours –

Dan Bradley, Tracy Martin

Fannie Mae Appraisal Guidelines (C21551-I)/4 Hours - Dan Bradley, Tracy Martin

Work File Your Best Defense Against an Offense (C21552-I)/5 Hours –

Dan Bradley, Tracy Martin

International Right of Way

Mobile Home Relocation (C21553)/7 Hours - Robert Merryman

Appraisal Institute

FHA Appraising for Valuation Professionals (C21554)/7 Hours - Mark Smeltzer

CONTINUING EDUCATION ACTIVITY INSTRUCTOR

Mid-West Appraisers Association

The Application of Small Residential Income Property Appraisal(C21547) - Barry Shea

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

M. UNFINISHED BUSINESS

- 1. COMPLIANCE AND EDUCATION SPECIALIST OPENING:** Director Kohtz informed the Board that the Compliance and Education Specialist opening has been closed.

Lunch served to board members and staff at 11:30 a.m.

2. **USPAP BOOK DISTRIBUTION:** Director Kohtz informed the Board that the plan to set up a liability account as a holding account for the transfer of funds related to USPAP books will not work. State Accounting took the position that the current method of purchasing, paying for, and collecting monies for the USPAP books is correct, and that the issue of funding should be directed towards the Legislature. The Director informed the Board that funds could be moved around to cover the expense of purchasing USPAP books, and that the Board could reallocate funds if it requests, and is approved for, budget deficit funding due to unforeseen health insurance costs. Chairman Kubert asked what this amount would be. Director Kohtz indicated that the amount would be a little over \$6,000.00. Board Member Langemeier indicated that he was concerned that if the USPAP books were still offered for retail sale, the burden of the original problem with USPAP distribution would just be shifted to the retail side. In other words, the cost may have been \$6,000.00 in the past, but without supplying a hard copy of USPAP to credential holders, more would purchase a hard copy from the Board, which would put the expense closer to the original \$18,000.00 amount. Director Kohtz acknowledged that he had not taken this prospective into account.

The discussion then shifted to the electronic version of USPAP that the Board is planning to offer credential holders. Director Kohtz was asked if this is getting close to being ready. The Director responded that CIO is putting the finishing touches on the USPAP download through Appraiser Login, and that it should be ready to go next week. Chairman Kubert asked Diane Moore, an education provider, if there were any concerns about the electronic version of USPAP from the USPAP course prospective. Ms. Moore responded that the electronic version of USPAP is acceptable to use, the biggest problem would be ensuring that all of USPAP is there, and that the student is able to access it for the entire length of the class. The Board agreed that the budget should not be adjusted to fund USPAP book retail, and that it will no longer offer USPAP books for retail sale. Board Member Woodle made a motion that a Memo From the Board be sent to credential holders explaining that a hard copy of USPAP will no longer be provided by the Board, one free download of the electronic version of USPAP will be available, and that the Board will no longer offer USPAP for retail sale. The motion was seconded by Langemeier, and carried with Gutwein, Saxton, Langemeier, Woodle, and Kubert.

Break from 12:04 p.m. to 12:16 p.m.

N. NEW BUSINESS

1. **CUSTOMARY AND REASONABLE FEES:** Director Kohtz informed the Board that Board Member Woodle requested that customary and reasonable fees be added to the agenda. Board Member Woodle explained that he is hearing from a lot of residential appraisers that the fees are not reasonable or customary. Board Member Woodle continued by saying that he wanted to get the topic in front of the Board to discuss its position. Director Kohtz reminded the Board that per past discussions, the Board's current official position concerning customary and reasonable fees is that the Appraisal Management Company Registration Act only requires that an appraisal management company certify that it has a system in place to meet the customary and reasonable fee requirements specified under Section 129E of the federal Truth and Lending Act, and that this matter is under the jurisdiction of the Federal Reserve System. A brief discussion took place regarding recent legislation in other states, and studies used to establish what is considered to be customary and reasonable. The Board requested that Director Kohtz contact Georgia, Virginia, Louisiana, and Kentucky to learn more about the customary and reasonable fee laws in those states. Director Kohtz informed the Board that he will provide a report at the September meeting.

2. **EXPOSURE TIME IN UPSAP:** Director Kohtz presented a document provided by Diane Moore that includes all the references to exposure time in USPAP. Board Member Saxton indicated that many appraisers are confused about when exposure time is used, and what exposure time is. He continued by saying that many of the reports he sees do not even reference exposure time when they clearly should include an exposure time. Director Kohtz was requested to draft a Memo From the Board reminding credential holders of what exposure time is and when it should be used.

O. LEGISLATIVE REPORT AND BUSINESS

1. **LR258:** Director Kohtz informed the Board that he briefly discussed LR258 with Bill Marienau. During that conversation Director Kohtz informed Mr. Marienau that the Board does not wish to take the lead on this study. If another party wishes to discuss this matter with the Board, language is drafted, or a hearing is scheduled, the Board would become involved at that time.

P. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. **Current Board Policies:** No discussion.

2. APPRAISER FORMS AND PROCEDURES

Five applications were presented to the Board for consideration; Application for Trainee Real Property Appraiser Credential, Application for Nebraska Real Property Appraiser Temporary Permit, Real Property Appraiser Credential Inactive Status Application, 2016-17 Application for Renewal of Real Property Appraiser Trainee Credential, and 2016-17 Application for Renewal of Real Property Appraiser Credential. The Board briefly discussed each application, and recommended that the section referring to the purchase of USPAP be removed from all applications based on the Board decision earlier during the meeting. In addition, the Board requested that only the total fee be shown on the first page of the two renewal applications, the inactive status application, and the temporary permit application, and that the fee breakdown be moved to the back of each application. Board Member Woodle moved to approve the Application for Trainee Real Property Appraiser Credential, the Application for Nebraska Real Property Appraiser Temporary Permit, the Real Property Appraiser Credential Inactive Status Application, the 2016-17 Application for Renewal of Real Property Appraiser Trainee Credential, and the 2016-17 Application for Renewal of Real Property Appraiser Credential as amended. The motion was seconded by Langemeier, and carried with Saxton, Langemeier, Woodle, Gutwein, and Kubert voting aye.

Q. OTHER BUSINESS

1. **BOARD MEETINGS:** Due to events taking place during the next couple of months, the Board agreed to move the September and October meetings.

Board Member Woodle made a motion to move the September board meeting to September 23, 2015. The motion was seconded by Langemeier, and carried with Langemeier, Woodle, Gutwein, Saxton, and Kubert voting aye.

Board Member Woodle made a motion to move the October board meeting to October 21, 2015. The motion was seconded by Langemeier, and carried with Gutwein, Woodle, Langemeier, Saxton, and Kubert voting aye.

2. CONFERENCES/EDUCATION

- a. **Fall AARO Conference; October 16-19, 2015:** Director Kohtz asked for interest in attending the Fall AARO Conference. Board Member Saxton indicated that he will attend. Director Kohtz indicated that he will be attending as well. Board Member Woodle made a motion to approve Board Member Saxton and Director Kohtz for attendance at the Fall AARO Conference. Seconded by Langemeier, and carried with Woodle, Langemeier, Gutwein, and Kubert. Saxton abstained.
- b. **Appraiser Education:** Director Kohtz requested approval for Compliance and Education Specialist Krieger to attend Basic Appraisal Principles on September 15th, 16th, 22nd, and 23rd; Basic Appraisal Procedures on October 27th and 28th, and November 3rd and 4th; and for CES Krieger and Business and Licensing Specialist Kienholz-Howsden to attend the National USPAP Course on December 8th and 9th. BLS Kienholz-Howsden informed the Board that she was unlikely able to attend the course in December. Director Kohtz also declared that moving the September board meeting date affected this request as well. After a brief discussion, the Board agreed that these courses are important for CES Krieger and BLS Kienholz-Howsden. Board Member Woodle moved to approve attendance of the Basic Appraisal Principles, Basic Appraisal Procedures, and the National USPAP Course for CES Krieger, and attendance of the National USPAP Course for BLS Kienholz-Howsden at the Director's discretion. The motion was seconded by Langemeier, and carried with Langemeier, Gutwein, Saxton, Woodle, and Kubert voting aye.
- c. **UNL Fall Career Fair; September 30, 2015:** Director Kohtz provided information regarding the UNL Fall Career Fair at Pinnacle Bank Arena on September 30, 2015, and indicated that this may be a good opportunity for the Board to reach out to students that may have interest in the appraiser profession. Board Member Kubert expressed his willingness to attend. The Board agreed that this is a good opportunity, and requested that Director Kohtz prepare some materials to handout at the fair. Director Kohtz informed the Board that he and Chairman Kubert can work together to develop a handout. Board Member Saxton requested that Director Kohtz contact the UNO Real Estate program to see if there is any documentation that they may want the Board to distribute as well. Director Kohtz indicated that he will contact UNO. Board Member Langemeier moved to approve attendance at the UNL Fall Career Fair on September 30, 2015. The motion was seconded by Woodle, and carried with Woodle, Gutwein, Langemeier, Saxton, and Kubert voting aye.

3. MEMOS FROM THE BOARD: No discussion.

4. APPRAISAL SUBCOMMITTEE

- a. **Kohtz Discussion with ASC Policy Manager Fenochietti Concerning the Consideration of Potential USPAP Violations Found during Investigation:** Director Kohtz presented an email response from ASC Policy Manager Fenochietti concerning the verification of USPAP violations in relation to a grievance filed. Director Kohtz indicated that it has always been his, and the Board's, position that all potential USPAP violations must be considered. In other words, the Board must have a review completed to determine if additional violations exist beyond the original grievance. According to Policy Manager Fenochietti, the Board does not have to "fish" for USPAP violations beyond those that are the basis for the original grievance. If additional violations are found during the course of the investigation, those violations must be considered with those in the original grievance, but the Board is not required to seek out violations.

5. APPRAISAL FOUNDATION

a. **Senators Rounds/Thune Letter to The Appraisal Foundation:** Director Kohtz presented a letter to The Appraisal Foundation co-signed by Senators Rounds and Thune of South Dakota concerning appraiser qualifications. The Board had a brief discussion, and agreed that this letter should be put on the September agenda for more discussion.

6. **IN THE NEWS:** Based on current events, Board Member Saxton asked Diane Moore, "Is there a place in the 7-Hour Supervisory Appraiser/Trainee Course in which the responsibilities that come with signing a report are discussed?" Ms. Moore responded, "Yes, it is discussed in the course." Board Member Saxton indicated that there are instances where trainees are signing reports, but never see the final product. In these cases, the supervisory appraiser makes corrections to the report once it is completed by the trainee, or completes the report after it is partially completed by the trainee, and then submits it to the client; the trainee sees nothing after turning it in. The trainee becomes partially responsible for the report, and learns nothing along the way. Ms. Moore added that trainees are advised not to sign the final product if they do not agree with the contents of the report.

Board Member Saxton also brought attention to the Nebraska Realtor's Association Gala, and indicated that it may be good for relations if the Board has representation at this event. Board Member Saxton volunteered to attend; Board Member Langemeier also volunteered to attend. Board Member Woodle moved to approve Board Members Saxton and Langemeier for attendance at the Nebraska Realtor's Association Gala. The motion was seconded by Gutwein, and carried with Gutwein, Langemeier, Woodle, and Kubert voting aye. Saxton abstained.

C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER:

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

Application 1 / Deny

T15007 / Approve as Trainee Real Property Appraiser.

T15008 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

T15009 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

T15007 (SA) / Approve as Supervisory Appraiser.

T15008 (SA) / Approve as Supervisory Appraiser.

CR15005 / Approve to sit for exam; authorize Director to issue credential upon successful completion of exam.

CG14041 / Hold

CG15016 / Deny submitted experience obtained between April 24, 2014 and May 5, 2015. 1500 hours of submitted experience obtained prior to April 24, 2014 accepted.

CG15015 / Request clarification of submitted experience.

CR14026 / Hold

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

NE2015006 / Requirements for registration as an appraisal management company approved as submitted. Authorize Director to issue registration upon completion of background check.

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

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Board Member Woodle moved to take the following enforcement actions:

14-15 / Monitor Consent Agreement
14-16 / Hold
14-17 / Hold
14-18 / Hold
14-19 / Hold
14-20 / Hold
14-22 / Monitor Consent Agreement
14-23 / Monitor Consent Agreement
14-24 / Monitor Consent Agreement
14-26 / Monitor Consent Agreement
14-27 / Monitor Consent Agreement
15-03 / Ongoing
15-04 / Ongoing
15-05 / Ongoing
15-06 / Ongoing
15-07 / Ongoing
15-09 / Hold

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

Board Member Langemeier moved to take the following enforcement actions:

14-32 / Hold
14-33 / Hold
14-35 / Ongoing

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS:

Appraisal reports submitted to the Board for verification of experience by applicants for credentialing were discussed by the Board. The appraisal reports were found to contain USPAP deficiencies during Standard 3 review process, and the Board agreed to open an inquiry for each supervisory appraiser to gather more information concerning the subject appraisal reports and associated Standard 3 reviews. Inquiry numbers I15-13, I15-14, I15-15 were assigned.

Personnel matters were discussed.

Board Member Woodle moved to take the following actions for other executive session items:

I14-32 / Hold

I14-33 / Hold

I15-2 / Ongoing

I15-3 / Ongoing

I15-4 / Ongoing

I15-13 / Open inquiry; send redacted copy of Standard 3 review, and request written response within 10 days.

I15-14 / Open inquiry; send redacted copy of Standard 3 review, and request written response within 10 days.

I15-15 / Open inquiry; send redacted copy of Standard 3 review, and request written response within 10 days.

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

R. ADJOURNMENT

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

At 1:24 p.m. Chairman Kubert adjourned the August 20, 2015 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on September 3, 2015, in compliance with Nebraska Revised Statute §84-1413 (5).