

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

September 14, 2016 Meeting Minutes

A. OPENING

Chairman Marc Woodle called to order the September 14, 2016 meeting of the Nebraska Real Property Appraiser Board at 9:12 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 Woodle 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 September 12, 2016 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 Marc Woodle, Sandra Gutwein, Benjamin Hynek, and David Bloxham were present. Also present were Director, Tyler Kohtz, Compliance and Education Officer, Grant Krieger, and Business and Licensing Specialist, Allison Nespor.

ADOPTION OF THE AGENDA

Chairman Woodle 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 Bloxham moved to adopt the agenda as printed. Board Member Gutwein seconded the motion. With no further discussion, the motion carried with Bloxham, Hynek, Gutwein, and Woodle voting aye.

Board Member Christopher Langemeier arrived at 9:15 a.m.

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

Board Member Langemeier moved that the Board go into executive session for the purpose of reviewing applicants for credentialing; applicants for appraisal management company registration; investigations; pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation; and employee performance evaluation. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. Chairman Woodle asked for a second. Board Member Bloxham seconded the motion. The time on the meeting clock was 9:15 a.m. The motion carried with Langemeier, Gutwein, Hynek, Bloxham, and Woodle voting aye.

Break from 10:26 a.m. to 10:43 a.m.

Board Member Langemeier moved to come out of executive session at 10:43 a.m. Board Member Bloxham seconded the motion. The motion carried with Bloxham, Hynek, Gutwein, Langemeier, and Woodle voting aye.

G. WELCOME AND CHAIR'S REMARKS

Chairman Woodle had no remarks.

H. BOARD MEETING MINUTES

1. APPROVAL OF AUGUST 25, 2016 MEETING MINUTES

Chairman Woodle asked for any additions or corrections to the August 25, 2016 minutes. With no further discussion, the Chairman called for a vote. Board Member Langemeier moved to adopt the August 25, 2016 meeting minutes as presented. Board Member Hynek seconded the motion. The motion carried with Bloxham, Hynek, Gutwein, Langemeier, and Woodle voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Board Member Hynek informed Director Kohtz that he would be fine with the presentation of the charts only, and the board members can ask questions and make comments as they see fit. Board Member Bloxham agreed, and added that he would support the change for all future meetings. The Board agreed with both Hynek and Bloxham. Director Kohtz then presented seven charts outlining the number of appraisers as of August 25, 2016, and asked for any questions or comments. There was no further discussion.

2. TEMPORARY PERMIT REPORT

Director Kohtz presented three charts outlining the number of temporary permits issued as of August 25, 2016, and asked for any questions or comments. There was no further discussion.

3. AMC COUNT REPORT

Director Kohtz presented two charts outlining the number of AMCs as of August 25, 2016, and asked for any questions or comments. There was no further discussion.

4. RECIPROCAL APPRAISER RESIDENCY

There was no discussion.

Director Kohtz finished his report by informing the Board that the 2017-19 Biennial Budget Request has been submitted. In addition, the Board's technology report, which is due every two years, has been submitted to CIO.

J. FINANCIAL REPORT AND CONSIDERATIONS – SEPTEMBER 2016

1. APPROVAL OF AUGUST RECEIPTS AND EXPENDITURES

The receipts and expenditures for August were reviewed by the Director by line item with the Board. Director Kohtz brought attention to publication and print expenses, and informed the Board that the \$669.18 includes the second quarter copy services charges. The Director then brought attention to legal services expenses, and indicated that \$16,000.00 of this is from FY 2015-16 billing, and encumbered funds will be utilized. The Director also informed the Board that \$10,600.00 of the \$16,330.00 was for three specific investigations related to one respondent. Finally, the Director informed the Board that the \$470.00 removed from certified renewal new revenues was the result of a journal entry to move the funds to the appropriate revenue accounts. The Director continued by informing the Board that the Department of Revenue submits its appraiser renewal fees through internal billing; staff is to move the fees to the appropriate accounts. For some reason, this did not get completed at the time the payment was made. Director Kohtz also reported that revenues have been strong through the first few months of the fiscal year.

For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$43,890.83 in expenditures and \$16,345.40 in revenues were reported. As of the end of August, expenses amount to 14.99 percent of the budgeted expenditures for the fiscal year; 16.99 percent of the fiscal year has passed. Director Kohtz finished by presenting three charts outlining the Agency twenty-five month expenses and revenues, historic cash balance, and twenty-five month cash balance.

Board Member Bloxham moved to accept and file the August 2016 budget reports for audit. Board Member Hynek seconded the motion. The motion carried with Langemeier, Gutwein, Hynek, Bloxham, and Woodle voting aye.

2. PER DIEMS

Director Kohtz informed the Board that he has no per diem requests for this meeting. Chairman Woodle asked if any board members had a request for the Board to consider. There was no further discussion.

K. GENERAL PUBLIC COMMENTS

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

L. EDUCATION

Board Member Langemeier moved to approve the following instructor as listed:

INSTRUCTORS ONLY

McKissock, LLC

Appraisals of Self Storage Facilities (C21416-I): Paul Lorenzen

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

M. UNFINISHED BUSINESS

1. BOARD MEMBER RECOGNITION: No update.

2. RENEWAL SEASON INTERN EMPLOYEES: Director Kohtz informed the Board that the intern request has been submitted to SOS Employment, and the openings are now being advertised. The Director indicated that he anticipates having both openings filled by October 1, 2016. There was no further discussion.

N. NEW BUSINESS

1. AS IS VALUE AND HYPOTHETICAL CONDITIONS: Chairman Woodle presented an email from Diane Moore concerning application of “as is” value if there is a hypothetical condition. According to Ms. Moore, the banking guidelines require that an “as is” value is required if a hypothetical condition is utilized. Chairman Woodle asked that an explanation be included in the Board’s next newsletter. Director Kohtz informed the Board that this topic will be included in the next newsletter.

2. COMPLIANCE AND EDUCATION OFFICER: Director Kohtz presented the new position description for the Compliance and Education Officer to the Board for review. There was no further discussion.

3. **ROMOHR RANDOM FINGERPRINT SELECTION REQUEST:** Director Kohtz presented an email from a Nebraska credentialed appraiser requesting that the Board reconsider its random fingerprint audit program for real property appraiser credential renewal. Specifically, the email requested that an appraiser not be eligible for random selection in consecutive years to have a criminal history record check completed for renewal of a credential. Director Kohtz provided the history of the random fingerprint audit program to the Board. One of the changes included in the 2015 Criteria was the introduction of background check requirements for all applicants for a real property appraiser credential. The 2015 Criteria also strongly recommended that a background check be completed for all applicants for renewal of a real property appraiser credential. The Board felt that requiring this for all Nebraska credential holders renewing a credential would be a costly and unnecessary burden, and instead, chose to establish a random fingerprint audit program to allow the Board to keep the costs low, and limit the number of times that a credential holder would be required to complete the criminal history record check. The Board did discuss the fact that an appraiser may be selected at random for a criminal history record check in consecutive years, but agreed that if the audit was to truly be random, then this would be a possibility. Finally, at the time, the Board also agreed that there would be positives with the potential of a credential holder being randomly selected for a criminal history record check in consecutive years. Chairman Woodle thanked Director Kohtz for the summary, and indicated that he saw no need for a change to the program, but asked that the history of the random fingerprint audit program be included in the next newsletter. Director Kohtz informed the Board that he would include a historic summary in the newsletter.

O. LEGISLATIVE REPORT AND BUSINESS

1. **AMC REGISTRATION ACT UPDATE:** No update.
2. **TITLE 298 UPDATE:** Director Kohtz presented the updated draft of Title 298 with the recommendations included by the Board at its August 25, 2016 regular meeting. The Director asked for any comments or recommendations. With no further discussion, Chairman Woodle asked for a motion. Board Member Langemeier moved to authorize Director Kohtz to have an informal review completed on the Title 298 draft as presented. The motion was seconded by Bloxham, and carried with Langemeier, Gutwein, Hynek, Bloxham, and Woodle voting aye.

P. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. **Current Board Policies:** No discussion.
- b. **1000 Hour Trainee Real Property Appraiser Courtesy Review Program:** No discussion.

2. COMPLIANCE FORMS AND PROCEDURES

- a. **Anonymous Respondent Report:** During its strategic planning meeting in June, the Board established a goal to explore the possibility of keeping a respondent's name confidential through part of, or through all of, an investigation. The Board requested that Director Kohtz ask Special Assistant Attorney General Blake for his opinion on this matter. The Director presented SAAG Blake's recommendation to the Board for consideration. Although SAAG Blake sees the positives and negatives related to respondent identification at different times during the investigative process, it is ultimately in the best interest of the Board to know the identity of the respondent. Failure to do so might become a basis for challenge, lead to a failure to identify a conflict that would require that a board member not participate in the proceeding, or failure to identify a potential disciplinary matter relevant to the situation. Board Member Gutwein indicated that she feels that it would be a good idea to keep the respondent's name confidential through at least part of the process. Chairman Woodle and Board Member Hynek indicated that they would prefer to know who the respondent is. Board Member Langemeier stated that he does not want to make changes to the investigative process until more time has passed since so many changes have recently been made. The Board took no action on this matter.
- b. **SME/Standard 3 Reviewer Training and Evaluation Program:** No discussion.

Q. OTHER BUSINESS

1. **BOARD MEETINGS:** Director Kohtz informed the Board that it needs to start thinking about the thirty day meeting notice requirement for a rules hearing, and requested that the Board look at the October and November meeting dates. The Board tentatively agreed on October 18, 2016, November 7, 2016, and December 15, 2016. Chairman Woodle asked Director Kohtz to send an email to each board member to confirm availability on October 18th. Director Kohtz informed the Board that an email will be sent at the end of the week.
2. **CONFERENCES/EDUCATION:** No discussion.
3. **MEMOS FROM THE BOARD:** No discussion.
4. **QUARTERLY NEWSLETTER:** Director Kohtz informed the Board that the "as is" value requirement when using a hypothetical condition, and the history of the random fingerprint audit program, will be included in the next newsletter. There was no further discussion.
5. **APPRAISAL SUBCOMMITTEE:** No discussion.
6. **APPRAISAL FOUNDATION**
 - a. **Appraisal Standards Board Public Meeting to Discuss the Second Exposure Draft of Proposed Changes for the 2018-19 Edition of the Uniform Standards of Professional Appraisal Practice – October 21, 2016; Washington, D.C.:** No discussion.

Break from 11:34 a.m. to 11:44 a.m.

Board Member Langemeier moved that the Board go into executive session for the purpose of reviewing applicants for credentialing; applicants for appraisal management company registration; investigations; pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation; and employee performance evaluation. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. Chairman Woodle asked for a second. Board Member Gutwein seconded the motion. The time on the meeting clock was 11:44 a.m. The motion carried with Bloxham, Hynek, Gutwein, Langemeier, and Woodle voting aye.

Break from 12:30 p.m. to 12:34 p.m.

Board Member Langemeier moved to come out of executive session at 12:50 p.m. Board Member Hynek seconded the motion. The motion carried with Bloxham, Hynek, Gutwein, Langemeier, and Woodle voting aye.

C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER

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

SA-T16008 / Approve as Supervisory Appraiser.

SA-T16008 / Approve as Supervisory Appraiser. Send letter clarifying supervisory appraiser/trainee real property appraiser status.

SA-T16008 / Approve as Supervisory Appraiser.

SA-T16008 / Approve as Supervisory Appraiser.

CR16008R / Requirements for credentialing as a Certified Residential Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG16015R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG16016R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CR16006 / Request that applicant rewrite submitted 2-4 family report with recommendations, or submit an additional 2-4 family report completed after September 14, 2016. Correct motion at the August meeting to change applicant number from CR16004 to CR16006.

CG16002 / Hold.

CG Temp Application / Approve; send advisory letter.

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

NE2016011 / Requirements for registration as an Appraisal Management Company approved as submitted. Authorize Director to issue registration upon completion of background check.

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

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Langemeier moved to take the following enforcement actions:

16-08 / Dismiss without prejudice.

**16-09 / Proceed with investigation for the alleged violation of
Neb. Rev. Stat. § 76-3215 (2)**

16-10 / Dismiss without prejudice.

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.
15-05 / Hold
15-09 / Hold
15-14 / Dismiss without prejudice.
15-16 / Ongoing
15-18 / Ongoing
15-19 / Return to agency for further investigation; obtain second SME.
16-02 / Ongoing
16-03 / Ongoing
16-05 / Ongoing
16-07 / Ongoing

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed inquiry I16-01.

The Board discussed a request for an individualized continuing education program made by a credentialed appraiser.

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

I16-01 / Close; send advisory letter. Correct motion at the July meeting to change inquiry number from I14-32 to I16-01.
Item 1 / Deny request.

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

R. ADJOURNMENT

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

At 1:08 p.m. Chairman Woodle adjourned the September 14, 2016 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on September 23, 2016, in compliance with Nebraska Revised Statute §84-1413 (5).