

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

November 17, 2016 Meeting Minutes

A. OPENING

Chairman Marc Woodle called to order the November 17, 2016 meeting of the Nebraska Real Property Appraiser Board at 9:05 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 November 14, 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, Christopher Langemeier, Benjamin Hynek, and David Bloxham were present. Board Member Sandra Gutwein was absent and excused. 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 Langemeier moved to adopt the agenda as printed. Board Member Hynek seconded the motion. With no further discussion, the motion carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

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 9:07 a.m. The motion carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

Board Member Langemeier moved to come out of executive session at 9:11 a.m. Board Member Hynek seconded the motion. The motion carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

Board Member Langemeier moved to amend the July 19, 2016 motions for 15-22 and 15-24 to dismissed with prejudice. Seconded by Bloxham, and carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

Board Member Langemeier moved to dismiss 15-23 with prejudice. Seconded by Bloxham, and carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

Board Member Langemeier moved that the Board go back 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 Hynek seconded the motion. The time on the meeting clock was 9:23 a.m. The motion carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

Board Member Langemeier moved to come out of executive session at 10:49 a.m. Board Member Bloxham seconded the motion. The motion carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

Break from 10:49 a.m. to 11:02 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairman Woodle made no remarks.

H. BOARD MEETING MINUTES

1. APPROVAL OF OCTOBER 18, 2016 MEETING MINUTES

Chairman Woodle asked for any additions or corrections to the October 18, 2016 minutes. With no further discussion, the Chairman called for a vote. Board Member Hynek moved to adopt the October 18, 2016 meeting minutes as presented. Board Member Bloxham seconded the motion. The motion carried with Bloxham, Hynek, Langemeier, and Woodle voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of November 17, 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 November 17, 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 November 17, 2016, and asked for any questions or comments. There was no further discussion.

4. CREDENTIAL RENEWAL PROGRESS REPORT

Director Kohtz presented two charts outlining the credential renewals progress through November 10, 2016. Director Kohtz summarized each chart, and informed the Board that only 18% of projected renewal applications have been received, which is behind the 29% for this time last year. Of the 185 applications received, 120 have been processed.

The Director finished his report by introducing Esther Sloh to the Board. Director Kohtz continued by informing the Board that Ms. Sloh is one of the interns hired to assist with processing credential renewals through mid-January. The Board welcomed Ms. Sloh.

J. FINANCIAL REPORT AND CONSIDERATIONS – NOVEMBER 2016

1. APPROVAL OF OCTOBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for October were reviewed by the Director by line item with the Board. Director Kohtz brought attention to postage expenses, and informed the Board that the \$332.68 includes the costs of mailing the renewal notice postcards. The Director then brought attention to commercial transportation expenses, and indicated that the \$598.70 expense was for his airline ticket to Washington, D.C. to attend AARO. Director Kohtz also reported that revenues are lagging behind projections due to renewal applications received lagging behind projections; this should improve in next month's financial report as renewal applications catch up to projections.

For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$23,093.36 in expenditures and \$38,081.04 in revenues were reported. As of the end of October, expenses amount to 26.44 percent of the budgeted expenditures for the fiscal year; 33.70 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 Hynek moved to accept and file the October 2016 financial reports for audit. Board Member Bloxham seconded the motion. The motion carried with Bloxham, Hynek, Langemeier, 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 education activities and instructors as listed:

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Valuometrics.info

Stats, Graphs and Data Science 1 (C21625)/14 Hours - George Dell

Mid-West Appraisers Association

National USPAP Update 2016/2017 (C21601)/7 Hours - Lynne Heiden

McKissock, LP

Appraisal Practices of Manufactured Housing – Live Webinar (C21630-I)/4 Hours – Dan Bradley, Steven Craddock, Robert McClelland, Jashua Walitt

Supporting Your Adjustments – Methods for Residential Appraisers (C21631-I)/7 Hours – Dan Bradley

International Right of Way Association

Eminent Domain Law Basics for the Right of Way Professional (C21632)/15 Hours –
Richard Schreiber

United States Environmental Protection Agency

Aquatic Resource Awareness Course for Real Estate Appraisers (C21633-I)/2 Hours –
Chan Pongkhamsing

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS

Trans-American Institute of Professional Studies, Inc.

15 Hour National USPAP Course (QE21601)/15 Hours – Lynne Heiden

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

M. UNFINISHED BUSINESS

- 1. BOARD MEMBER RECOGNITION:** Compliance and Education Officer Krieger provided an updated list to the Board showing that many of the gaps for past board members have been completed. CEO Krieger indicated that he reviewed old minutes to find the missing names, but a deeper investigation will be needed to find the remaining missing names. Director Kohtz mentioned that we might have to review microfilm at the State Historical Society to complete this task. It was also mentioned that Lynne Heiden may have some of the missing names as well. CEO Krieger informed the Board that he will continue working on this project.
- 2. RENEWAL SEASON INTERN EMPLOYEES:** Director Kohtz informed the Board that the second opening has been filled by Ms. Sloh. Ms. Gallardo has had to take some time away, and likely will not be back before the assignment ends. Due to Ms. Gallardo's absence, Ms. Sloh has agreed to take on additional hours to help ensure that renewal applications are processed in a timely manner.
- 3. OPEN 2ND CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION:** Director Kohtz informed the Board that advertising for the open second congressional district certified real property appraiser representative position has begun. A Memo From the Board was sent out, and a Facebook post was made on the Board's page.

N. NEW BUSINESS

- 1. AMC FEE PAYMENT FOR COMPLETED REPORT TIME REQUIREMENT:** Director Kohtz presented an email received from a Nebraska credentialed appraiser requesting that the sixty day requirement for payment of fees found in Neb. Rev. Stat. § 76-3215 (2) be reduced to thirty days. The Board concluded that the sixty day requirement is both reasonable and effective as it exists, and took no action. Director Kohtz was asked to provide a written response back to the requestor, thanking her for the question and interest in the law. The Director informed the Board that this will be completed.

2. **FANNIE MAE ENHANCED PROPERTY INSPECTION WAIVER:** Director Kohtz presented a document by Fannie Mae titled “Enhanced Property Inspection Waiver” to the Board for review. The Director informed the Board that Chairman Woodle asked that this item be placed on the agenda for discussion. Chairman Woodle indicated that he found the waiver to be interesting. Board Member Bloxham suggested that this option to waive the appraisal requirement can only be used on conforming loans. With the expansion of this program, Fannie Mae has eliminated the use of a property inspection waiver on purchase transactions—something that has been available in the past. For loans that are not eligible for a property inspection waiver, an appraisal is still required, reported on the appropriate appraisal report form for the type of property being appraised. Chairman Woodle asked, “What is the big picture?” Board Member Bloxham responded, “It is easier to close loans, and shows an increased comfortability by Fannie Mae with its database.” Bloxham continued, “They are expanding the program, but elimination of purchase transactions will most likely result in close to a net-zero impact on the number of appraisals ordered during peak-purchase season.” There was no further discussion.
3. **UNO REAL ESTATE PROGRAM APPEARANCE:** Director Kohtz presented an email chain between himself and David Beberwyk, Director of Outreach and Education at the UNO Real Estate Center, discussing a potential appearance by the Board in a classroom. Mr. Beberwyk and Director Kohtz agreed that the best opportunity to reach the students most interested in the appraiser profession would be at the program’s Rho Epsilon meeting on Tuesday, February 21, 2017 at 4:30 p.m. The Director continued by informing the Board that he would be available to attend, but he also wanted to give board members to opportunity to attend if anyone wished to do so. The Board agreed that Director Kohtz should attend, and indicated that a board member or two may be available depending on how things are looking as the date approaches. Director Kohtz indicated that he will inform Mr. Beberwyk that he, and maybe a board member or two, will be in attendance on February 21st.

O. LEGISLATIVE REPORT AND BUSINESS

1. **AMC REGISTRATION ACT UPDATE:** Director Kohtz presented the bill draft, REQ00231, with the proposed change to the AMC Registration Act to the Board for review. The Director informed the Board that Neal Nelson in Bill Drafting, and Bill Marienau, Legal Counsel for the Legislature’s Banking, Commerce, and Insurance Committee, assisted with cleaning up the language in the bill. The Director stated, “The three of us worked to ensure that all definitions are accounted for, and that definitions are used correctly and consistently. The only substantial change is that the defined term “Appraiser” was changed to “AMC Appraiser,” and the twelve month period for establishment of an appraiser panel was left undefined, which gives the Board more flexibility to define this period in the rules.” Director Kohtz continued by saying that the defined term appraiser may be too generic, and could cause unwanted confusion with the public, which is why the term was changed to AMC Appraiser. This will ensure that it is understood that all references to this term utilize the term as defined in this act.

Board Member Langemeier questioned the definition of AMC Appraiser, and asked how non-credentialed appraisers would be addressed. Director Kohtz responded that the individual acting as an appraiser without proper credentialing would be doing so under the provisions of the real property appraiser act. In addition, the language in REQ00231 also addresses those organizations engaged in, or offering, appraisal management services without first obtaining proper registration in section 16, and requires that individuals included on an appraiser panel meet the definition of an AMC Appraiser; not meeting this requirement would be a violation of the act by the AMC. Director Kohtz asked the Board if any changes are needed to ensure that no loopholes exist. The Board agreed that the language is fine as presented.

(continued on page 6)

(continued from page 5)

Chairman Woodle asked what the next step is. The Director asked that the Board approve the bill draft for public comment. Board Member Hynek moved to approve REQ00231 as presented and request comments on the proposed language for consideration at the December meeting. Seconded by Bloxham, and carried with Bloxham, Hynek, Langemeier and Woodle voting aye.

P. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

a. Current Board Policies: No discussion.

b. Attorney General Memo Concerning LB867 Changes to the APA: Director Kohtz presented a memo from the Office of the Attorney General to all state officials, agencies, boards, and commissions regarding the LB867 changes to the Administrative Procedure Act, operative on January 1, 2017, to the Board for review. The Director reminded the Board that there will be a new definition of “Rule or Regulation” at this time, and that Board Policies will no longer be utilized. After January 1, 2017, the Board is required to issue a “Guidance Document” where it would now issue a Board Policy. The issuance of a Guidance Document includes a defined approval process laid out in LB867. Director Kohtz informed the Board that he intends to begin planning for this change in early 2017. There was no further discussion.

2. APPRAISER FORMS AND PROCEDURES

a. 1000 Hour Trainee Real Property Appraiser Courtesy Review Program: Director Kohtz presented new Board Policy 16-02 titled “Real Property Appraiser 1000 Hour Report Review Continuing Education Activity” to the Board for consideration concerning the 1000 Hour Trainee Real Property Appraiser Courtesy Review Program. The Director summarized the proposed Board sponsored continuing education activity, and informed the Board that he attempted to include all comments received from board members into the proposal. As written, this plan would allow for a trainee, licensed residential, or certified residential real property appraiser to apply for acceptance into a continuing education activity by meeting the defined prerequisites. Once accepted, the staff would select a report for review. After a Standard 3 review of the selected report is completed, a redacted copy will be sent to the activity attendee for comment. Once this is received, the report, Standard 3 Review Report, and written response will be submitted to the Board for review. After the Board review, an assigned board member will contact the activity attendee to inform him or her of the Board’s evaluation of the report, Standard 3 review, and submitted comments. After this meeting, the activity attendee will be required to submit a written report explaining what he or she learned from the process.

Director Kohtz then brought attention to AAG Hart’s comments on the proposed continuing education activity. The Director continued by informing the Board that since he has not been involved with such of an activity, he felt more comfortable getting feedback from the Attorney General’s Office. AAG Hart commended the Board for its innovative idea, but indicated that she was concerned with the fact that what experience is acceptable is not defined, what will be redacted in the Standard 3 review is not defined, and the proposed plan for how to handle USPAP violations. Director Kohtz finished by saying that the first two items are easily fixed, but the last item will require some definite changes.

(continued on page 7)

(continued from page 6)

Board Member Langemeier mentioned that this program should apply to trainees only, and that he doesn't see the need for continuing education to be awarded. He then brought attention to the latest exposure draft by The Appraisal Foundation's Appraiser Qualifications Board concerning the Real Property Appraiser Qualifications Criteria, and indicated that this entire idea will be moot if the AQB reduces the required experience hours as proposed. Chairman Woodle echoed these thoughts and said, "I can see a lot of work was put into this, but Board Member Langemeier is correct." Director Kohtz indicated that if the program is applied to trainees only, it could no longer be presented as a continuing education activity because of how the law is written. No board member had an issue with this. Another comment was made declaring that the trainee should be allowed to select his or her own report to have reviewed. This would allow them to put their best foot forward. Board Member Hynek asked if the Board would provide written comment back to the trainee at the end of the process. Director Kohtz responded, "Yes, this is part of the procedure." Board Member Bloxham added that comments should be contained to facts only.

The Board agreed to table discussion and remove this item from the agenda until further clarity is provided by the AQB regarding changes to the hour requirements in the Real Property Appraiser Qualifications Criteria.

3. COMPLIANCE FORMS AND PROCEDURES

- a. SME/Standard 3 Reviewer Training and Evaluation Program:** No discussion.

Q. OTHER BUSINESS

- 1. BOARD MEETINGS:** No discussion.

2. CONFERENCES/EDUCATION

- a. Kohtz Fall AARO Conference Report:** Director Kohtz attended the Fall AARO Conference from October 21st through 24th in Washington, D.C. The Director provided a detailed summary of the conference for the board members to review. Director Kohtz informed the Board that much of the discussion centered on data analytics. There was also some discussion regarding the Real Property Appraiser Qualifications Criteria; the comments were all over the place. Ted Whitmer also gave an interesting presentation on USPAP compliance. He discussed how USPAP is often considered by the courts. There was no further discussion.

- 3. MEMOS FROM THE BOARD:** No discussion.

- 4. QUARTERLY NEWSLETTER:** Director Kohtz informed the Board that the next version of the newsletter will be on the December agenda.

- 5. APPRAISAL SUBCOMMITTEE:** No discussion.

6. APPRAISAL FOUNDATION

- a. NRPAB Response to Appraiser Qualifications Board Second Exposure Draft of Proposed Changes to the Real Property Appraiser Qualifications Criteria:** Director Kohtz presented the Board's response letter to the Second Exposure Draft of Proposed Changes to the Real Property Appraiser Qualifications Criteria to the Board. The Board thanked Director Kohtz for preparing and sending this letter. There was no further discussion.

- b. **Appraiser Standards Board Public Meeting Summary Concerning the Second Exposure Draft of Proposed Changes for the 2018-19 Uniform Standards of Professional Appraisal Practice:** There was no discussion.
- c. **Appraisal Practices Board Valuation Advisory #8: Collection and Verification of Residential Data in the Sales Comparison Approach:** Director Kohtz presented the Appraisal Practices Board Valuation Advisory #8 titled, "Collection and Verification of Residential Data in the Sales Comparison Approach" to the Board for review. There was no discussion.
- d. **Appraisal Standards Board USPAP Q&A: September 13, 2016:** Director Kohtz presented the Appraisal Standards Board September USPAP Q&As to the Board for review. The Director informed the Board that the first question pertains to the use of drones for inspections. The ASB indicates that a drone can be used as a tool for inspection, but it cannot replace a personal inspection. An appraiser is required in the Scope of Work Rule to properly disclose the extent to which the property was inspected. The second question pertained to intended users for a Restricted Report. USPAP does not allow for a Restricted Report when there is more than one intended user. The AQB indicates that USPAP does allow multiple clients, so if a report were to have co-clients, a Restricted Report format would be permitted. There was no further discussion.

7. **IN THE NEWS:** No discussion.

C. **CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER**

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

CG16019R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG16020R / Approve as a Certified General Real Property Appraiser.

CG16022R / Approve as a Certified General Real Property Appraiser.

CG16023R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

L16003 / Education and Experience accepted; approve to sit for exam, and authorize Director to issue credential upon successful completion of exam.

CG16009 / Send two additional reports for Standard 3 review.

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

D. **REGISTRATION AS APPRAISAL MANAGEMENT COMPANY**

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

NE2016012 / Requirements for registration as an Appraisal Management Company Approved as submitted. Authorize Director to issue registration upon completion of background check.

NE2016013 / Deny

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

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Langemeier moved to take the following enforcement actions:

- 16-13 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-2237 and 76-2238 (4)(5)(12)(16).**
- 16-14 / Dismiss without prejudice; send advisory letter.**
- 16-15 / Dismiss without prejudice.**
- 16-16 / Dismiss without prejudice; send advisory letter.**
- 16-17 / Dismiss without prejudice; send advisory letter.**
- 16-18 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-2237 and 76-2238 (5)(12)(16)(18).**
- 14-22 / Rescind October 18, 2016 motion to close; reopen investigation with additional charges for alleged violation of Neb. Rev. Stat. § 76-2238 (5)(16)(17)(18)(22).**
- 14-23 / Rescind October 18, 2016 motion to close; reopen investigation with additional charges for alleged violation of Neb. Rev. Stat. § 76-2238 (5)(16)(17)(18)(22).**
- 14-24 / Rescind October 18, 2016 motion to close; reopen investigation with additional charges for alleged violation of Neb. Rev. Stat. § 76-2238 (5)(16)(17)(18)(22).**
- 14-26 / Rescind October 18, 2016 motion to close; reopen investigation with additional charges for alleged violation of Neb. Rev. Stat. § 76-2238 (5)(16)(17)(18)(22).**
- 14-27 / Rescind October 18, 2016 motion to close; reopen investigation with additional charges for alleged violation of Neb. Rev. Stat. § 76-2238 (5)(16)(17)(18)(22).**
- 14-35 / Dismiss without prejudice.**
- 15-05 / Hold.**
- 15-09 / Hold.**
- 15-15 / Dismiss without prejudice.**
- 15-19 / Ongoing.**
- 16-02 / Ongoing.**
- 16-03 / Dismiss without prejudice.**
- 16-04 / Monitor Consent Agreement.**
- 16-05 / Ongoing.**
- 16-07 / Ongoing.**
- 16-09 / Dismiss without prejudice.**
- 16-11 / Ongoing.**
- 16-12 / Ongoing.**

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS: None

Break from 12:37 p.m. to 12:47 p.m.

R. ADJOURNMENT

Board Member Langemeier moved to adjourn the meeting. Board Member Hynek seconded the motion. Motion carried with Bloxham, Hynek, Langemeier, and Woodle voting aye. At 12:47 p.m. Chairman Woodle adjourned the November 17, 2016 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

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