

**REAL PROPERTY APPRAISER BOARD  
LIQUOR CONTROL COMMISSION HEARING ROOM  
5TH FLOOR, NEBRASKA STATE OFFICE BUILDING  
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

**February 21, 2007**

**OPENING**

Chair Sheila Newell called to order the February 21, 2007, meeting of the Nebraska Real Property Appraiser Board at 10:35 a.m., in the Liquor Control Commission Hearing Room, 5th Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Board Members Timothy Kalkowski, Joe Wilson, Jim Bain, Sheila Newell and Gregg Mitchell were present. Interim Administrator Kitty Policky, was also present.

**NOTICE OF MEETING**

Chair Newell announced notice of the meeting was duly given, posted, published and tendered in compliance with the Open Meetings Law, and all Board members received notice simultaneously by e-mail. The agenda was kept current in the Nebraska Real Property Appraiser Board Office. Materials generally used by the Board for the meeting were available in the public folder for inspection. A copy of the Open Meetings Law was available for the duration of the meeting.

**ADOPTION OF THE AGENDA**

Board Member Mitchell moved to adopt the Agenda as printed. Board Member Wilson seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain and Newell voting aye. Motion carried.

Chair Newell welcomed the guests to the meeting and asked them to please sign the guest log. Signing the guest log were Diane Moore, The Moore Group; Gary Bush, Budget Analyst, John Childears, Certified General Appraiser, North Platte; Cay Lacey, Certified General Appraiser, Lincoln; and, Lori Johnson.

**APPROVAL OF THE MINUTES FROM JANUARY 25, 2007**

Chair Newell asked for any additions or corrections to the January 25, 2007 minutes. Chair Newell asked to have page one, paragraph one amended to state: "Prior to the meeting, Deputy Secretary . . ." and eliminate the first three words as a point of clarification. On page three, under Receipts & Expenditures, the third line, Chair Newell requested the word government be changed to ASC. The line should read: "She noted the largest expense was the Federal Registry Fee sent to the ASC which comes from each . . ." Request to add clarification to a motion under Receipts and Expenditures to read: "Board Member Bain moved to file the December Receipts and Expenditures Report for audit." Page four under Current Education Requirements, last sentence should be changed to read: "Board agreed." Board Member Bain added that under Rules & Regulations on page four, the time is incorrect and should be changed to 10:14 a.m. instead of 10:17 a.m. Chair Newell requested under Public Notification of Enforcement,

the first sentence, omit the words, assistant to. Sentence should read: "Board Member Wilson requested Director Ekstein to contact several of the larger . . ." Chair Newell requested a spelling error under Enforcement Matters be corrected. The first sentence of paragraph three has an extra l behind Wilson. Vice Chair Wilson moved to approve the minutes of the January 25, 2007, meeting as corrected. Board Member Bain seconded. The motion carried with Kalkowski, Wilson, Bain, Mitchell and Newell voting aye.

### **APPROVAL OF THE MINUTES FROM FEBRUARY 8, 2007**

Board Member Mitchell moved to approve the minutes which were e-mailed to each member and not the minutes presented at this meeting of the February 8, 2007, emergency meeting. Vice Chair Wilson second the motion. The motion carried with Wilson, Bain, Mitchell, Kalkowski, and Newell voting aye.

### **INTERIM ADMINISTRATOR'S REPORT**

Interim Administrator Policky reported the number of credential to date was 221 Registered and 40 Conversions for a total of 261; 164 Licensed credentials and eight reciprocity for a total of 172 Licensed credentials; 103 Certified Residential and 45 Reciprocity Certified Residential for a total of 148; 239 Certified General and 104 Reciprocity Certified General for a total of 381; Total number of 962 appraisers to date. Policky reported she was trying to restore the office and database to create history. The appraiser history can be restored. Education will need to be addressed after the appraiser history. The files will need to be restored. An audit requested and signed by Chair Newell is protocol and has been submitted to the State Treasurer's office.

Kalkowski addressed the extent of the audit function of DAS and asked about the procedures for payables and receivables. NIS will serve as a record for any information necessary to complete the audit.

### **CHAIR'S REPORT**

Chair Newell addressed the importance of assuring that qualifying information needed to be correct when giving appraisers direction. Newell suggested directing education questions to individuals representing the education providers who have understanding and knowledge of the education matrix and requirements for 2008. Kalkowski suggest a listing of all providers and not just select individuals should be provided. Policky stated she directs questions to the providers that would most effectively meet their education requirements and requests.

Chairman Newell reported LB186 passed Feb. 12, 2007 and the Governor signed Feb. 14, 2007. Effective date is technically 90 days after last legislative day and that date is projected as May 31, 2007 making the effective date August 29, 2007. Chair Newell wished to thanks all individuals who assisted in making the endeavor a success.

### **RECEIPTS AND EXPENDITURES REPORT – January**

Interim Administrator Policky explained the expenditures and receipts report appears in a budget format to account for the independent liability accounts for federal fees and sales taxes. She reminded the Board of the 1:30 meeting before the Appropriations Committee

to thank the Senators for not eliminating the additional \$11,000 request to the existing legal budget. Observation of the cash balance shows the cash balance is satisfactory. Discussion ensued regarding the expense report. Date should be corrected to read December 31, 2006 instead of December 21, 2006.

Vice Chair Wilson moved to file the January Receipts and Expenditures report for audit with the noted correction. Board Member Bain seconded. The motion carried with Bain, Mitchell, Kalkowski, Wilson and Newell voting aye.

### **UNFINISHED BUSINESS**

Chair Newell asked the members what goals they would like to see the Board set for 2007. Board Member Kalkowski expressed his goals of regaining creditability to the Board as a responsible representative body to the public and to the appraisers. Board Member Bain expressed interest in pursuing the Investigator training. Vice Chair expressed his goal of Review training and Chair Newell expressed an interest in perhaps a recognition dinner for past board members and directors as well as having meetings across the state in conjunction with the Review training. These ideas were for consideration and not a topic for motion.

#### **Investigator Training**

The Board discussed the pros and cons of continuing their plans for the investigator training and decided to put the issue on hold until consulting with legal representative, Charles Lowe. There is a concern that the training of these individuals may jeopardize due process or a possible conflict of interest. Board requested Mr. Lowe be invited to the next meeting for advise in pursuing the matter.

#### **Rules and Regulations**

Chair Newell reported to the Board that the proposed Rules & Regulations or Title 298 had been delivered to Policy Research January 30, 2007. Subsequent to the passage of LB186 on February 12, 2007, the Rules and Regulations would need to be consistent with LB186. LB186 changes the “scope of practice” and would initiate a change to Chapter 5 Section 001.02B by eliminating the words “and that are non-lending transactions”. Vice Chair Wilson moved to recall the proposed Rules and Regulations. Board Member Bain seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain and Newell voting aye.

Board Member Kalkowski moved to amend the proposed Rules and Regulations Chapter 5 Section 001.02B to comply with LB186. Vice Chair Wilson Seconded. The motion carried with Kalkowski, Wilson, Bain, Mitchell and Newell voting aye.

The Board set the hearing date of April 12, 2007 for public comment.

Board Member Mitchell moved to take a 15 minute recess. Vice Chair Wilson seconded. Motion carried with all members voting aye. The time was 12:05.

Board resumed at 12:20 p.m.

### **Publication of Enforcement Actions**

The question of publishing enforcement actions was presented to the legal counsel by Chair Newell and Vice Chair Wilson. The suggestion by legal counsel was to simply publish the facts. Do not present a narrative or editorialize. Present the case number, case name, and the agreed settlement or order without editorializing or wavering from the format. Chair Newell requested the Board make suggestions as to the format and publicly address the intent of publishing enforcement. Board Member Mitchell stated the intent was to provide the public with notification and information concerning the actions taken against an appraiser. The facts of the case should be presented to the public in an agreed upon format. Board Member Kalkowski requested we present the applicable statutes above the publishing of the cases. Publishing will involve all appraisers whose enforcement actions have been settled since January 1, 2006. The format for presenting the cases on the website would be investigated and presented at the March 20, 2007 meeting. Vice Chair Wilson moved to publish all disciplinary actions on the website using the agreed upon format of case number, name, items of agreement or order and include any fees paid by the respondent with the effective date of the disciplinary action as of January 1, 2006. Board Member Mitchell seconded the motion. Board Member Kalkowski amended Wilson's motion by adding the parameter of violation as written on the order or agreed settlement. Vice Chair Wilson second. Motion carried with Kalkowski, Wilson, Bain, Mitchell, and Newell voting aye. Vote on main motion carried with Mitchell, Kalkowski, Wilson, Bain and Newell voting aye.

### **NEW BUSINESS**

#### **State Audit Request**

Board Member Mitchell moved to ratify the request for a state audit made by Chair Newell. Vice Chair Wilson seconded the motion. Motion carried with Wilson, Bain, Mitchell, Kalkowski and Newell voting aye.

#### **Appropriations Committee Hearing**

Board Member Kalkowski and Interim Administrator Policky were approved to leave the meeting to attend at 1:30 p.m. hearing before the Appropriations Committee to thank the committee for their consideration and support of the original request and returning the \$11,000 to the 08-09 budget for legal fees.

### **GENERAL PUBLIC COMMENTS**

There were no general public comments.

Board Member Kalkowski presented the proposed programs submitted by Lynne Heiden to be presented to the Nebraska Mortgage Association. Kalkowski reported Lynne Heiden would charge \$1500 a session for development and presentation. The presentation would be in two parts with one in the spring and one in the fall for a total of \$3,000. Kalkowski point out the proposed outline presentation was missing the regulatory function and what bank examiners and auditors look for. Vice Chair Wilson stated that these presentations are educational and should be endorsed by the Board. Board member

Kalkowski stated he would get more information. Chair Newell requested the programs be placed on the March 20, 2007 agenda for further discussion.

## **EDUCATION**

### **Seminar Approval**

Interim Administrator Policky indicated the only education was the McKissock seminar for 7 hours held over from the January 25, 2007, meeting. Board Member Mitchell moved to approve the class for seven hours and instructor Alan Simmons. Vice Chair Wilson seconded. The motion carried with Kalkowski, Wilson, Bain and Mitchell voting aye. Newell voting no.

The Board took a ten minute recess at 1:20 p.m..

Board Member Kalkowski and Interim Administrator Policky left for the Appropriations Committee hearing.

The Board reconvened at 1:23 p.m.

Vice Chair Wilson moved that the Board go into executive session for the purpose of considering written complaints. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals involved with alleged violations of real property appraisal practice. The time on the meeting room clock was 1:23 p.m. Board Member Bain seconded. The motion carried with Mitchell, Wilson, Bain and Newell voting aye.

Chairman Newell restated the sole purpose for the executive session was to consider written complaints. The time was 1:23 p.m. Present for the executive session were Board Members Newell, Bain, Wilson and Mitchell. Jane Langan, special counsel for the Nebraska Real Property Appraiser Board and John Childears was also present.

## **ENFORCEMENT MATTERS**

Vice Chair Wilson moved to come out of executive session at 2:43 p.m. Board Member Mitchell seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain and Newell voting aye. Chair Newell stated for the record Board Member Kalkowski and Interim Administrator Policky were absent for the first part of the session to attend the Appropriations Committee Hearing and returned at approximately 2:25 p.m. Mr. John Childears was present at 1:23 p.m. and left the executive session at approximately 1:45 p.m. Vice Chair Wilson left the meeting for the discussion of Case #06-01 and Case #06-02.

Vice Chair Wilson moved:

- Case 07-01 Send out for review.
- Case 06-29 Hold until March 20<sup>th</sup> meeting.
- Case 06-27 Dismiss.
- Case 07-02 Send out for review.
- Case 07-03 Send out for review.
- Case 07-04 Send out for review.

Case 06-26 Send out for review.

Mitchell moved to second. The motion carried with Kalkowski, Wilson, Bain, Kalkowski, and Newell voting aye.

### **APPLICANTS**

Vice Chair Wilson moved that the Board go into executive session for the purpose of considering applicants. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to applications. The time on the meeting room clock was 2:44 p.m. Board Member Bain seconded. The motion carried with Wilson, Bain, Mitchell, Kalkowski and Newell voting aye.

Chairman Newell restated the sole purpose for the executive session was for the Board to review the qualifications of applicants. The time was 2:44 p.m. Board members Kalkowski, Mitchell, Bain, Wilson and Newell were present. Interim Administrator, Kitty Policky was also present.

Vice Chair Wilson moved to come out of executive session at 2:49 p.m. Board Member Bain seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain, and Newell voting aye.

Vice Chair moved to approve Registered applicants James Cahoj and Melissa Johnson.

Vice Chair Wilson moved to deny CR20771.

The motion carried with Mitchell, Kalkowski, Wilson, Bain, and Newell voting aye.

Vice Chair Wilson further moved to approve Brian Wilson, CG20000.

The motion carried with Kalkowski, Bain, Mitchell, and Newell voting aye and Board Member Mitchell abstaining.

Vice Chair Wilson further moved: California reciprocal needs additional information. If California requires work product for credentialing and the program is similar to Nebraska's program the application can be processed. If no work product is required, the applicant will be required to submit reports.

Board Member Kalkowski seconded. The motion carried with Kalkowski, Wilson, Bain, Mitchell and Newell voting aye.

### **PERSONNEL MATTERS**

Vice Chair Wilson moved that the Board go into executive session for the purpose of considering personnel matters. A closed session is clearly necessary to prevent needless

injury to the reputation of the individual or individuals involved. The time on the meeting room clock was 2:54 p.m. Board Member Bain seconded. The motion carried with Wilson, Bain, Mitchell, Kalkowski and Newell voting aye.

Chairman Newell restated the sole purpose for the executive session was for the Board to review personnel matters. The time was 2:55 p.m. Board members Mitchell, Kalkowski, Bain, Wilson and Newell were present. Kitty Policky joined the executive session at 3:10 p.m.

Vice Chair Wilson moved to come out of executive session at 3:17 p.m. Board Member Kalkowski seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain, and Newell voting aye.

Vice Chair Wilson moved to pay Kitty Policky an annual salary of \$60,000 as Interim Administrator for the Board. Board member Bain seconded the motion. Board Member Mitchell amended the motion to \$5,000 monthly. Kalkowski seconded the amendment. The amendment and motion carried with Wilson, Bain, Mitchell, Kalkowski and Newell voting aye.

Vice Chair Wilson moved to approve the additional expenses of Chair Newell for the night of January 23, 2007 and the internet connection charges. Board Member Bain second. The motion carried with Bain, Mitchell, Wilson and Kalkowski voting aye. Newell abstained.

#### **NEXT MEETING DATE**

Chairman Newell stated the next meeting of the Nebraska Real Property Appraiser Board will be Tuesday, March 20, 2007.

Vice Chair Wilson moved to adjourn the meeting. Board Member Bain seconded. The motion carried with Mitchell, Kalkowski, Wilson, Bain and Newell voting aye.

The meeting was adjourned at 3:20 p.m.

Respectfully submitted,

Kitty Policky, Interim Administrator

These minutes were available for public inspection on February 26, 2007, in compliance with Nebraska Statute §84-1413(5).