

**REAL PROPERTY APPRAISER BOARD
LOWER LEVEL, ROOM “B”
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

17 December 2009

OPENING

Chairman Gregg Mitchell called to order the December 17, 2009, meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., in Lower Level, Room “B” of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

NOTICE OF MEETING

Chairman Mitchell 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 e-mail. 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 Bradford Moore, Matthew ‘Joe’ Wilson, James Bain, David Hartman, and R. Gregg Mitchell were present. Director Kitty Policky was also present.

ADOPTION OF THE AGENDA

Chairman Mitchell 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. Chairman Mitchell requested that Danny Stoeber be moved to appear after the Chair’s Report because of a time conflict for Mr. Stoeber. With no objections and no further discussion, Vice Chair Moore moved to adopt the Agenda as printed moving Mr. Stoeber after the Chair’s Report. Board Member Bain seconded the motion. With no further discussion, the motion carried with Wilson, Bain, Hartman, Moore, and Mitchell voting aye.

WELCOME GUESTS

Chair Mitchell welcomed the guests to the meeting and asked that they please sign the guest log and announced the closed session of the meeting would follow.

OPEN SESSION /APPROVAL OF THE MINUTES FROM November 19, 2009

Chair Mitchell asked for any additions or corrections to the November 19, 2009 minutes. With no further discussion Vice Chair Moore moved to adopt the minutes as presented. Board Member Wilson seconded the motion. The motion carried with Bain, Hartman, Moore, Wilson, and Mitchell voting aye.

CHAIRMAN’S REPORT

Chairman Mitchell and Vice Chairman Moore met the Nebraska Realtors Association on Monday, December 14th to discuss the proposed statute changes. Tammy Kristen and Walt Radcliffe were in attendance. The meeting was very positive and they were supportive of the AMC legislation and had no criticism of the proposed regulation.

Chairman Mitchell brought to the Board’s attention the written response from Nebraska to the Appraisal Subcommittee as a result of the Appraisal Subcommittee’s compliance review process August 18th & 19th. Chair Mitchell requested any addition or corrections to the response at this time.

The correspondence will be approved for signature and forwarded to the Appraisal Subcommittee. Vice Chair Moore moved to accept the response to the Appraisal Subcommittee. Board Member Wilson seconded the motion. The motion carried with Hartman, Moore, Wilson, Bain, and Mitchell voting aye.

NEW BUSINESS

1. 10-11 USPAP Standard 3 Review Report / Danny Stoeber

Mr. Stoeber was invited to the December meeting to discuss the updates for the Standard 3 Review Report form under the newly adopted 2010-2011 USPAP guidelines. The goal of the Board is to eliminate as much opinion as possible in the review process. The investigator training emphasized accountability. The new reference would be to a USPAP Compliant Report.

Board Member Wilson suggested that Dennis Badger, instructor for the investigator training, may be a good source of information in updating the review report. The goal emphasized at the training was to strictly stick to the questions and answers. Basically only facts are reported.

Board Member Wilson proposed Mr. Stoeber submit an outline of the charges to the Director to authorize Mr. Stoeber to proceed with the contract subject to review by the Chair and submit a draft for the January meeting of the review changes. Vice Chair Moore seconded the motion. With no further discussion, Chairman Mitchell called for the vote. The motion carried with Moore, Wilson, Bain, Hartman, and Mitchell voting aye.

Chairman Mitchell moved General Public Comments to accommodate the number of visitors who wish to address the Board.

Dan Kube, representing the Kube Construction and a member of a builders group formed about fifteen years ago came before the Board as a spokesman for the group. Of the five members in attendance, three are past presidents. Although not novices to the building industry in the state they feel they have legitimate questions to ask and concerns in regard to an appraisal developed for "The Preserve." A handout indicated the various phases of the development project. Complete analysis of the property leading to an opinion in regard to the three approaches to value to include the cost, sales, and income approach. The appraisal before the Board uses only the income approach noting no cost approach was included with the appraisal that most financial institutions would expect to finance or refinance the property. The fact that the cost approach is missing could actually be attributed to the failure of the project. As lay people with no extensive knowledge, what could be done if the project fails because the appraisal?

Chair Mitchell pointed out that it would be appropriate for an enforcement action to be filed as obviously the developers feel the report is deficient and you have every opportunity to file a complaint with the Board. If the enforcement review procedures find the appraisal report deficient, there are actions that could be taken. Financial institutions are struggling as much as builders and transactions are under close review. An alternate action would be go to another financial institution and ask for a new appraisal to be performed. But the appropriate procedure at this time would be to file a complaint with the Board. The complaint form is available in the Appraiser Board office or on our website. The Board will take a break at this time and get a copy of the appropriate complaint form to file and the enforcement filing will go before the January 2010 meeting.

Chair Mitchell thanked the builders present for their time and interest in seeking the appropriate actions. This Board is here to serve and protect the public as much as it is to serve the appraiser community.

Board took a break at 9:50 a.m.

Board meeting reconvened at 10:05 a.m.

DIRECTOR'S REPORT

The number of appraisers for November stands as follows: 132 Registered/Conversion; 123 Licensed; 206 Certified Residential; and 389 Certified General for a total of 850 appraisers. The accounting includes the totals for December of 2008 with a total of 811 appraisers. The certified general decreased by one with the notice of a retirement from the profession.

Director Policky also distributed a copy of the correspondence to each distance education provider as a result of the notice from the Appraisal Subcommittee indicating that it is necessary for all providers of distance education to submit documentation indicating that the course delivery mechanism or IDECC approval has been earned and that the verification must be maintained in the approved education file for each education provider as the primary course provider's IDECC approval does not transfer to the secondary provider. The correspondence indicates to each provider that they have until January 1st to submit the requested IDECC approvals or a distance education provider will be suspended until such documentation has been filed with the office.

Director Policky closed the report by thanking the Board for their efforts and concerns.

RECEIPTS AND EXPENDITURES REPORT – NOVEMBER 2009

The receipts and expenditures for November were reviewed by the Director by line item with the Board. A total of \$22,898.77 in expenditures and \$67,971.66 in receivables is reported. No considerations were made for expenditures other than monthly obligations but receivables are significant as we are in the process of renewals for 2010. A copy of the Budget Status Report, the General Ledger Report and Receipt Journal for November is attached and considered part of these minutes.

Board Member Hartman moved to accept and file the November 2009 Receipts and Expenditures report for audit. Vice Chair Moore seconded the motion. With no further discussion, Chairman Mitchell called for the vote. The motion carried with Wilson, Bain, Hartman, Moore, and Mitchell voting aye.

Unfinished Business

1. Nebraska Farm Service Agency / Richard Barta

Mr. Barta did not appear before the Board but sent correspondence to express his thanks for the opportunity to appear before the Board with questions and concerns. Mr. Barta forwarded correspondence by email to Vice Chair Moore addressing some proposed language changes for the FSA handbook and the engagement letter in regards to the FSA requirement of the \$1.00 value attribution to mineral rights. Three options are proposed addressing: a) when appraiser can determine the value of the mineral rights; b) when the mineral rights are not worth much; and c) when an appraiser cannot determine the value of the mineral rights. The options and the language which may be used is a positive change. The initiative is a step in the right direction.

Chair Mitchell acknowledged the approach and thanked Mr. Barta and FSA for their efforts in attempting to comply with USPAP in regard to an appraiser's knowledge and expertise.

Before moving from Old Business, Vice Chair Moore mentioned as a follow up to the appearance of Marilyn Hladky before the Board with concerns about a reasonable methodology under Standard 6 of USPAP for an appraiser to be utilizing to determine what is the proper adjustment for agriculture properties that sell that have improvements on them. Further discussion at the November meeting indicated the question of methodology had been submitted to IAAO (International Association Assessing Officers) Technical Section to be considered at the November 5, 6, & 7th meeting. It was Hladky understanding that verbage to address this issue would be available on IAAO's website @ IAAO.org for comment the first week of December. The Board had determined at the November 19th meeting that the Board would wait until IAAO has issued an opinion as they certainly are the experts on mass appraisal. Chair Mitchell suggested the Board continue to monitor the situation and wait for the opinion of the experts. No opinion had been posted by the December 17th meeting.

Board took a break at 10:55 a.m.

Board meeting reconvened at 11:15 a.m.

H. NEW BUSINESS

2. Cease & Desist Procedures:

Distributed to each member was correspondence from Natalee Hart, Attorney General representative, indicating the use of the "cease and desist" provision of Neb. Rev. Stat. §76-2223. The cease and desist provision is in regard to someone who is not credentialed and is violating, or who has violated, provisions of the Act. Although it is strongly cautioned the Board's use of the cease and desist orders, the Attorney General's office recommends using the "orders only in those extreme circumstances in which no other method of contact has been successful." The Board proceeded to formulate procedures for use of the cease and desist orders as follows: 1. The violation would be submitted in closed session as part of the enforcements; 2. Assign enforcement number separate from current enforcement numbering system and send a cease and desist letter to the subject requesting a reply from the subject; 3. Consider subject response. If action warrants, the Board has every right to file the cease and desist as an order and forward the case to the county attorney for legal action. Such action would be filed by the Board's legal representative under Neb. Rev. Stat. State. §76-2223(10).

Chair Mitchell called for a motion to adopt the proposed procedures for action in regard to a cease and desist. Board Member Wilson moved to adopt the proposed procedures as the Board determined necessary in regard to issuing action for a cease and desist as both a letter and as legal action. Board Member Bain seconded the motion. With no further discussion, Chairman Mitchell called for the vote. The motion carried with Bain, Hartman, Moore, Wilson, and Mitchell voting aye.

3. Military education credit.

Director Policky requested the Board consider forwarding correspondence in regard to the education by the military and how such education could be interpreted. It could not be the intent of the Appraisal Foundation to disregard the merits of an education from the military for those who have served and in some cases, built a lifetime career. Under the guidelines acceptable to the Appraisal Foundation, education earned to meet the post secondary requirements must be from an accredited college, junior college, community college, or university. If an accredited college or

university, accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education and accepts the College Level Examination Program (CLEP) examinations(s) and issues a transcript for the exam, showing its approval, the education will be considered as credit for the college course. As Director Policky pointed out, many individuals serving in the military have extensive education and training in technology and related issues and the accomplishments of those who receive education from the military should not be totally disregarded.

The only viable alternative the Appraiser Board has as this point would be to launch an awareness of the guidelines with the Nebraska Senate and House representatives as the guidelines are established by federal oversight. Until action is taken on the federal level, Nebraska cannot lower the requirements for the post secondary education requirement.

GENERAL PUBLIC COMMENTS

Chair Mitchell asked for any public comments. With no comments, the Chair proceeded to education.

EDUCATION

Vice Chair Moore moved to approve the following continuing education seminars and respective instructors as listed:

Continuing Education New:

1. Appraisal Institute, Chicago, IL:

A. "General Market Analysis & Highest & Best Use" / 28 hours / C2887

Instructor: Joseph Magdriarz & Ron DeVries

2. McKissock, Warren, PA:

A. "Risky Business: Ways to Minimize Your Liability" / ONLINE / 7 hours / C2918-I

Instructor: Alan F. Simmons

B. "Sales Verification: Principles, Procedures & Case Studies"/ONLINE /7 hours /C2964-I

Instructor: Paul Lorenzen

Board Member Wilson seconded the motion. With no further discussion, Chairman Mitchell called for the vote. The motion carried with Hartman, Moore, Wilson, Bain, and Mitchell voting aye.

Chairman Mitchell thanked those in attendance for their input and interest and informed those attending the Board would go to closed session.

APPLICANTS & ENFORCEMENT

Vice Chair Moore moved that the Board go into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of qualifying applicants and relating to the alleged violations of performance in real property appraisal practice. The time on the meeting clock was 12:01. Board Member Wilson seconded the motion. The motion carried with Moore, Wilson, Bain, Hartman, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 1:26 p.m. Board Member Bain seconded the motion. The motion carried with Wilson, Bain, Hartman, Moore, and Mitchell voting aye.

Vice Chair Moore moved to take the following action for the applicant for the Supervisor / Trainee:
ST207: Approve.

Vice Chair Moore moved to take the following action for the Certified Residential applicants:

- CR363 / Candidate meets all AQB upgrade requirements to qualify for CR credential.
Approve for credentialing when successful completion of exam is submitted.
- CR367 / Candidate meets all AQB upgrade requirements to qualify for CR credential.
Approve for credentialing when successful completion of exam is submitted.
- CR368 / Candidate meets all AQB upgrade requirements to qualify for CR credential.
Approve for credentialing when successful completion of exam is submitted.
- CR369 / Deny. Request three new Board selected reports and \$250.00 review fee.
- CR370 / Candidate meets all AQB upgrade requirements to qualify for CR credential.
Approve for credentialing when successful completion of exam is submitted.
- CR371 / Select three (3) appraisal reports for a residential: <20 years; residential >20 years and a 2-4 family for Standard 3 Report. Approve to submit for examination.

Vice Chair Moore moved to take the following action Certified General Reciprocity applicant:
CG597: Approved for credentialing. Applicant requested effective date of 1/1/2010.

Board Member Wilson seconded the motion. Motion carried with Wilson, Bain, Hartman, Moore, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement actions:

- 06-22 Hold. Education must be completed by Nov. 30th and report submission completed by Dec. 31st. Failure to meet deadlines / Dec. 31, file Formal Complaint.
- 08-11 Hold / Board granted another extension for education until March 1, 2010. Stress to appraiser there will be no further extensions.
- 08-22 Hold. Litigation. Filing by Attorney General's office.
- 09-02 Select report from quarter log submission. Request from respondent.
- 09-20 Hold. Report meets minimum USPAP requirements. Dismiss.
- 09-21 Hold. Report sent for Standard 3 Review Report.
- 09-22 Hold. Report sent for Standard 3 Review Report.
- 09-23 Hold. Report sent for Standard 3 Review Report.

Board Member Wilson seconded the Motion. With no further discussion the motion carried with Bain, Hartman, Moore, Wilson, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement action:

- 09-07 Formal / Hearing 1/29/10, 9:00 AM
- 09-09 Formal / Hearing 1/29/10, 9:00 AM

Board Member Bain seconded the motion. The motion carried with Hartman, Moore, Bain, and Mitchell voting aye. Board Member Wilson abstained.

Vice Chair Moore moved to take the following enforcement action:

09-24 Hold. Report sent for Standard 3 Review Report.

Board Member Wilson seconded the motion. The motion carried with Moore, Wilson, Bain, and Hartman voting aye. Chairman Mitchell abstained.

Tentative meeting dates were approved as follows: February 18, 2010 / LLB

March 18, 2010 / 1Y

April 15, 2010 / 1Y

ADJOURNMENT

Vice Chair Moore moved to adjourn the December 17, 2009 meeting. Board Member Bain seconded the motion. Motion carried unanimously.

At 1:30 p.m. Chair Mitchell adjourned the December 17, 2009 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on December 24, 2009, in compliance with Nebraska Statute §84-1413(5).