

**REAL PROPERTY APPRAISER BOARD
LOWER LEVEL, ROOM "F"
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

21 July 2011

OPENING

Chairman Brad Moore called to order the July 21, 2011 meeting of the Nebraska Real Property Appraiser Board at 9:06 a.m., in Room "F" located on the Lower Level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

NOTICE OF MEETING

Chairman Moore 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. Publication of official notice of the meeting appeared in the July 18, 2011 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this State, as required by the public meeting law. 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, Gregg Mitchell, Tom Kubert, Philip Barkley, and David Hartman were present. Director Kitty Policky was also present.

ADOPTION OF THE AGENDA

Chairman Moore 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 Mitchell moved to adopt the Agenda as printed. Board Member Kubert seconded the motion. With no further discussion, the motion carried with Barkley, Mitchell, Kubert, Hartman, and Moore voting aye.

WELCOME GUESTS

Chairman Moore welcomed the guests to the meeting and asked that they please sign the guest log.

APPROVAL OF THE MINUTES FROM JUNE 16, 2011

Chairman Moore asked for any additions or corrections to the June 16, 2011 minutes. With no further discussion Board Member Mitchell moved to adopt the minutes as amended. Board Member Hartman seconded the motion. The motion carried with Kubert, Hartman, Mitchell, and Moore voting aye.

CHAIRMAN'S REPORT

Chairman Moore distributed to each member a copy of the "Mortgage Origination: The Impact of Recent Changes on Homeowners and Businesses", a testimony of Sara W. Stephens. He noted several articles of interest regarding the Appraiser Management Companies and issues that the Board may need to address in the future as the AMCs begin operating in Nebraska. Another handout distributed was the "Illinois Appraiser" newsletter. One article of interest read, "USPAP does not explicitly define or address drafts of reports." Chairman Moore stated there will be more and more "draft" appraisals. He encouraged each Member to read the handouts.

DIRECTOR'S REPORT

Director Policky reported the number of appraisers for July 2011 stands as follows: 94 Registered/Conversion; 89 Licensed Residential; 212 Certified Residential; and 371 Certified General for a total of 766 appraisers. The accounting includes the totals for July 2010 reporting 819 appraisers

and the report for July 2009 reporting 844 appraisers. The renewal period for 2011 ended June 30, 2011. Director Policky also reported that 76 appraisers did not renew for 2011. Of those 76 non renewals, 26 were Certified General, 7 Certified Residential, 13 Licensed, and 30 were Registered or Conversions. Letters were sent to each appraiser who renewed for the two-year period of 2011-2012 who have the USPAP Update due in 2011 as a reminder. Any appraiser who does not complete the update before the end of the year will have his or her credential inactivated until such requirement is met.

Director Policky closed the report by thanking the Board for their service and assistance.

RECEIPTS AND EXPENDITURES REPORT – JUNE 2011

The receipts and expenditures for June were reviewed by the Director by line item with the Board. A total of \$17,074.72 in expenditures and \$2,736.64 in receivables is reported. Considerations were made for expenditures for monthly obligations. The final payment to the Governor was made June 15, 2011 in the amount of \$7,279.50 and appears on the budget status report under “Operating Transfers Out.” A total of \$156,000.00 has been taken from the agency through LB1. Director Policky notified the Board of an increase by accounting and auditing for next year. The fee has been increased by 39%. This fee is paid annually. The agency is also charged .25 for each document processed. As the Real Property Appraiser Board has only two staff members, the accounting department becomes the third party in the checks and balances process. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for June are attached and considered part of these minutes.

Board Member Mitchell moved to accept and file the June 2011 Budget Status report for receipts and expenditures for audit. Board Member Kubert seconded the motion. With no further discussion the motion carried with Barkley, Kubert, Hartman, Mitchell, and Moore voting aye.

UNFINISHED BUSINESS

AMC Legislation/ LB410/ Proposed Rules and Regulations

A copy of Title 298 was reviewed by Appointed Special Attorney General Natalee Hart and was presented to the Board. The proposed new AMC rules and regulations were added to Title 298. Ms. Hart made several recommendations for changes and additions to the proposed rules. The proposed rules were discussed considering the recommendations and the need to add appropriate regulation to reflect the oversight of LB410. The Board Members reviewed and discussed the proposed changes and requested the topic be returned to the August 18, 2011 meeting to finalize the changes.

Board took a break at 10:00 a.m.

Board meeting reconvened at 10:07 a.m.

NEW BUSINESS

1. AMP fiscal year 2011-2012 contract

Director Policky presented to the Board the 2011-2012 AMP contract to administer AQB approved testing for each credential candidate from Nebraska. Further discussion indicated the contract was acceptable as presented. Board Member Barkley moved to approve the AMP contract and designate Chair Moore to sign. Board Member Kubert seconded the motion. With no further discussion the motion carried with Mitchell, Barkley, Kubert, Hartman, and Moore voting aye.

2. DAS Proposed Mileage Rates/ Adopt change to Travel Policy

The State Accounting Division notified all agencies in a memo dated June 24, 2011 of a proposed mileage rate change. Currently the allowed rate is .51 per mile. The new rate will increase to .555 per mile effective July 1, 2011. The mileage change alters the Travel Policy as adopted by the Board.

Board Member Barkley moved to approve and adopt the change to the travel policy. Board Member Kubert seconded the motion. With no further discussion the motion carried with Kubert, Hartman, Mitchell, Barkley, and Moore voting aye.

3. 2012-13 New and Renewal Rates and Forms

The 2012-13 renewal forms were presented to the Board with the appropriate changes made for the increase in the fee to the Appraisal Subcommittee from \$25.00 to \$40.00 per year and \$80.00 for a two year renewal for each federally recognized credential. Board Member Mitchell moved to accept the renewal forms as presented. Board Member Kubert seconded the motion. With no further discussion the motion carried with Barkley, Kubert, Hartman, Mitchell, and Moore voting aye.

Director Policky distributed the projected income for 2013 at the current rate of \$300.00 each itemizing the projected income at the current rate to also include approximately 120 temporary credentials at the rate of \$100.00 application fee and \$50.00 pocket card fee. The projected income would amount to approximately a total of \$232,650.00.

It was suggested the new and renewal fee remain at \$300.00 for 2013 plus the \$40.00 Federal Registry fee for Licensed Residential, Certified Residential, and Certified General. The renewal fee for the Registered and Appraiser Trainee will remain at \$300.00. The temporary fee would remain at \$100.00 application fee and \$50.00 pocket card fee. The reciprocal new and renewal fees would be the same as the resident new and renewal fees.

Board Member Mitchell moved to approve the new and renewal credential rates for 2013 as follows: \$300 for Registered, Appraiser Trainee, Licensed Residential, Certified Residential, and Certified General. The federally recognized designations would remit the \$40.00 fee due to the Appraisal Subcommittee for each credential in addition to the appropriate fee. The 2012 rates for new and renewal credentials would remain at the rate approved at the August 19, 2010 meeting. All other fees remain at current rates. Vice Chairman Barkley seconded the motion. With no further discussion the motion carried with Hartman, Mitchell, Barkley, Kubert, and Moore voting aye.

4. AMC Fee Schedule

Director Policky distributed a proposed fee structure as the fees exist in the statutes and the proposed rules and regulations. An Appraisal Management Company (AMC) registration is valid for two years after the date on which it is issued and an application for the renewal of a registration shall include substantially similar information. Under LB410, Section 6: The Board shall charge and collect fees for its services under the Nebraska Appraisal Management Company Registration Act. The fees will be as follows: Application fee of \$350.00; initial registration fee of \$2,000.00; renewal registration fee of \$1,500.00; and a late fee of \$25.00 per month or any portion of a month the fee is late for six months.

Board Member Mitchell moved to adopt the fee structure as presented. Member Hartman seconded the motion. With no further discussion the motion carried with Kubert, Hartman, Mitchell, Barkley, and Moore voting aye.

5. Proposed New Credential

The Nebraska Real Property Appraiser Act, 76-2229.01 (5) . . . an applicant shall receive no more than three successive annual renewals for credentialing as a registered real property appraiser . . . No

Registered credentials will be issued after December 31, 2011. Those individuals obtaining a Registered credential in 2011 will have three renewal periods. As of January 1, 2015, there will no longer be a Registered credential. Director Policky proposed a credential that would replace the Registered in giving agencies a measure of accountability and render a beginning for those interested in the profession of appraisal. A discussion to consider the advantages and disadvantages of creating a credential much like the one that is about to retire led members of the Board to request time for consideration regarding the Proposed New credential and to add the subject to the agenda for the August 18, 2011 Board Meeting.

6. Proposed Changes Title 297 Chapter 4

Director Policky introduced Title 297, adopted in 1994 and amended in 1999 to the Board. Title 297 consists of Chapter 1, Rules of Practice and Procedure for Negotiated Rulemaking; Chapter 2, Petitioning for Rulemaking; and Chapter 3, Procedures Governing Agency Declaratory Orders. Chapter 4 was submitted for adoption but was inadvertently filed under Title 53 instead of Agency 53. Director Policky proposed amending Chapters 1, 2, and 3 to reflect the name change from Nebraska Real Estate Appraiser Board to Nebraska Real Property Appraiser Board effective July 14, 2006 by LB778 and adding Chapter 4 in its entirety as required by the Attorney General's office. Chapter 4, Rules of Practice and Procedure for Hearings In Contested Cases Before An Agency, would be adopted in its entirety.

Board Member Mitchell moved to amend Chapters 1, 2, and 3 of Title 297 to incorporate the name change from "Real Estate Appraiser Board" to "Real Property Appraiser Board" and adopt Chapter 4, "Rules of Practice and Procedure for Hearings in Contested Cases before an Agency" as proposed by the Attorney General. Board Member Barkley seconded the motion. With no further discussion the motion carried with Mitchell, Barkley, Kubert, Hartman, and Moore voting aye.

The motion and vote to amend Chapters 1, 2, and 3 of Title 297 and adopt Chapter 4 will begin the rules and regulation process. A hearing will be set for at least 31 days to present the changes to the public for comment and the proposed changes and announcement for the hearing will be posted on the website.

Appraiser Communication

Any communications sent by the office via the internet to all appraisers will first be sent to each Board Member for review and or approval. The Board Members will have 24 hours to review the information prior to it being forwarded on.

GENERAL PUBLIC COMMENTS

Chair Moore asked for any public comments.

With no comments, the Chair proceeded to the education.

EDUCATION

Board Member Mitchell moved to approve the following continuing education seminars and respective instructors as listed:

Continuing Education New:

1. Career WebSchool dba Cengage Learning, Atlanta, GA:

A. "Sales Comparison Approach" / Online / 7 hours / C2727-I

Instructor: Dr. A.M. Black

B. "Income Capitalization Overview" / Online / 7 hours / C2726-I

- Instructor: Dr. A.M. Black
C. “Cost Approach Overview” / Online / 7 hours / C2716-I
Instructor: Dr. A.M. Black

2. Allterra, Cincinnati, OH:

- A. “2011 Keynote / Valuation Visionaries” / 7 hours / C21150
Instructors: List available upon request. Policy statement of participating instructors complies with the Instructor Approval Standards established by the Appraiser Board for continuing education activities and meets all standards established for instructors;
- B. “2011 Appraiser Town Hall Meeting / Fraud Fighters” / 7 hours / C21151
Instructors: List available upon request. Policy statement of participating instructors complies with the Instructor Approval Standards established by the Appraiser Board for continuing education activities and meets all standards established for instructors;

3. Randall School of Real Estate, Omaha, NE:

- A. “The New Generation of Homes: Healthier & More Energy Efficient” / 3 hrs. / C21119
Instructor: Dean Uhing

4. Appraisal Institute, Chicago, IL:

- A. “Comparative Market Analysis” / Online / 7 hours / C21125-I
Instructor: Arlen C. Mills

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

Board Member Mitchell moved to approve the following changes to the Core Curriculum education as listed:

AQB/CAP Core Curriculum Requests

1. The Moore Group, Lincoln, NE:

- A. Submission of new text for L/CR004 “Residential Market Analysis & Highest & Best Use”
Text: Hondros 2nd Edition submitted w/new timed outline and AQB approval.
- B. Submission of new text for L/CR005 “Residential Site Valuation & Cost Approach”
Text: Hondros 2nd Edition submitted w/new timed outline and AQB approval.

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

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

APPLICANTS & ENFORCEMENT

Board Member Mitchell 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 2:22 p.m. Board Member Kubert seconded the motion. The motion carried with Hartman, Mitchell, Barkley, Kubert, and Moore voting aye.

Vice Chair Barkley moved to take the following action for a Certified Residential by reciprocity applicant:

CR387 / Candidate meets all statutory obligations of §76-2231.01. Approve for credentialing.

Vice Chair Barkley moved to take the following action for Certified General by reciprocity applicants:

CG620 / Candidate meets all statutory obligations of §76-2232. Approve for credentialing.

CG621 / Candidate meets all statutory obligations of §76-2232. Approve for credentialing.

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

Board Member Mitchell moved to take the following enforcement actions:

09-07 Hold. Notice of Hearing.

09-09 Hold. Notice of Hearing.

09-25 Hold until Cases #09-07 & #09-09 are complete.

Board Member Hartman seconded the motion. Motion carried with Hartman, Mitchell, Barkley, and Moore voting aye. Board Member Kubert abstained.

Board Member Mitchell moved to take the following enforcement actions:

10-19 CLOSE / Respondent has submitted fee for State Treasurer costs for processing check for insufficient funds. Violation of §76-2238(21).

11-04 Consent Agreement to successfully complete a 30-hour General Report Writing & Case Studies; 30-hour Income Approach Part 1; and 15-hour National USPAP. Education due nine months from meeting date of June 16; and submit log of appraisals completed 5/1/2011 to 9/1/2011 by 9/12/2011. Respondent requested extension for completion of education because of health considerations to 12/31/2012. Board agreed to an extension in completing two of the three courses by January 1, 2012 and the remaining course to be completed by July 1, 2012. Only change approved to the Consent Agreement. Issued new document for signature. Board Chairman sign Consent Agreement.

11-11 Respondent submitted evidence as requested by Board. Standard 3 Compliance Review indicates report meets the minimum Uniform Standards. Close. Chairman sign Order of Dismissal.

11-12 Request true copy of report and workfile. Contract for Standard 3 Compliance Review Report.

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

Board Member Mitchell moved to take the following enforcement actions:

11-02 Standard 3 Compliance Report complete. Report does not meet minimum standards. Related to #11-05. Credential holder did not renew. Related to 11-03 Supervisor.

- 11-03 Standard 3 Compliance Report complete. Report does not meet minimum standards. Related to #11-05. Invite informal August 18, 8:00 a.m.
- 11-05 Standard 3 Compliance Report complete. Report does not meet minimum standards. Invite informal August 17, 4 p.m.
- 11-10 Standard 3 Compliance Report complete. Review report meets minimum standards. Close. Chairman sign Order of Dismissal.

Board Member Kubert seconded the motion. Motion carried with Mitchell, Barkley, Kubert, and Moore voting aye. Board Member Hartman abstained.

Board Member Mitchell moved to come out of executive session at 3:00 p.m. Board Member Kubert seconded the motion. The motion carried with Hartman, Mitchell, Kubert, and Moore voting aye.

ADJOURNMENT

Board Member Mitchell moved to adjourn the meeting. Board Member Kubert seconded the motion. Motion carried unanimously.

At 3:30 p.m. Chairman Moore adjourned the July 21, 2011 meeting of the Real Property Appraiser Board. The next meeting is scheduled for August 18, 2011 in conference room "F" located on the Lower Level of the NSOB.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on July 27, 2011, in compliance with Nebraska Statute §84-1413(5).