

**REAL PROPERTY APPRAISER BOARD
Conference Room “F”, Lower Level
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

August 15, 2012 Meeting Minutes

A. OPENING

Chairman Brad Moore called to order the August 15, 2012 meeting of the Nebraska Real Property Appraiser Board at 8:35 a.m., in conference room F located on the lower level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

B. 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 email. Publication of official notice of the meeting appeared in the August 13, 2012 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, Tom Kubert, Philip Barkley, and Eldon Terrell were present. Marc Woodle was absent and excused for the start of the meeting. Also present were Director, Tyler Kohtz, and Staff Assistant, Kirsten Casburn.

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

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

Board Member Barkley moved that the Board go into executive session for the purpose of reviewing applicants for credentialing, applicants for appraisal management company registration, investigations, and other sensitive matters. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. The time on the meeting clock was 8:37 a.m. Board Member Kubert seconded the motion. The motion carried with Kubert, Terrell, Barkley and Moore voting aye.

Board Member Marc Woodle arrived at 8:50 a.m.

Break from 10:03 a.m. to 10:10 a.m.

Board Member Barkley moved to come out of executive session at 12:02 p.m. Board Member Terrell seconded the motion. The motion carried with Kubert, Woodle, Terrell, Barkley and Moore voting aye.

WELCOME GUESTS

Chairman Moore welcomed the guests to the meeting and asked that they please sign the guest log. Diane Moore was the only public member in attendance.

F. APPROVAL OF THE MINUTES FROM JULY 2012

Chairman Moore asked for any additions or corrections to the July 19, 2012 minutes. With no further discussion Board Member Kubert moved to adopt the minutes as presented. Board Member Barkley seconded the motion. The motion carried with Woodle, Terrell, Barkley, Kubert and Moore voting aye.

G. CHAIRMAN'S REPORT

Chairman Moore welcomed board members and staff to the meeting, and thanked newly appointed Board Member Eldon Terrell for his service to the State of Nebraska. The Chairman reported that he is pleased the Board is at full strength. Changes made during the past few months will benefit Nebraska appraisers and the citizens of the state. Specifically, Chairman Moore mentioned the Board's first strategic planning meeting on June 7, 2012, developing and putting in place a plan to improve the Board's investigative processes and procedures, and expanding the Board's mission to better serve the citizens of Nebraska.

H. DIRECTOR'S REPORT

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of August 15, 2012. The Director summarized each chart and reported the number of appraisers as follows: 88 total Licensed, 81 resident and 7 reciprocal; 211 total Certified Residential, 177 resident and 34 reciprocal; 373 total Certified General, 264 resident and 109 reciprocal; and 16 Registered for a total of 688 appraisers. Total number of appraisers is up 3 from July, but significantly down from the 769 in August 2011 due to the drop in the number of Registered/Conversion appraisers. After a drop between December 2011 and January 2012 due to renewals, the number of appraisers is currently trending upwards slowly.

The Director also addressed the number of temporary permits issued, which increased drastically during the last month. There were 16 permits issued in July compared to 7 permits issued in June. With the exception of June, the number of temporary permits has held steady during the previous twelve months, and slowly increased during the previous five years. In addition, Director Kohtz reported 82 AMCs registered, and five new AMC applications have been submitted since the last meeting.

I. FINANCIAL REPORT – JULY 2012

The receipts and expenditures for July were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific July expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$20,067.64 in expenditures and \$11,438.88 in receivables were reported. As of the end of July, expenses amount to 6 percent of the budgeted expenditures for the fiscal year. Considerations were made for expenditures for monthly obligations. No considerations were made for expenditures other than monthly obligations. Director Kohtz presented three charts outlining the Agency twelve month expenses and revenues, historic cash balance, and twelve month cash balance.

Board Member Barkley moved to accept and file the July 2012 Budget Status reports for receipts and expenditures for audit. Board Member Kubert seconded the motion. The motion carried with Terrell, Barkley, Kubert, Woodle and Moore voting aye.

Director Kohtz presented the FY 12-13 Budget to the Board for review. The Director went over each line item budgeted expense and projected revenue for the year with the Board. Director Kohtz made note of any changes to the base budget, and also detailed any one time budgeted expenditures. The budget includes a one time expenditure for settlement purposes, and an additional amount for database improvements. Any other line item changes for FY 12-13 are general operation changes. The Board discussed moving the Director's annual review date to July 1 each year to coincide with the change in fiscal year.

Board Member Barkley moved that the Board go back into executive session for the purpose of discussing personnel matters. The time on the meeting clock was 1:10 p.m. Board Member Kubert seconded the motion. The motion carried with Woodle, Terrell, Barkley, Kubert and Moore voting aye.

Board Member Barkley moved to come out of executive session at 2:03 p.m. Board Member Kubert seconded the motion. The motion carried with Woodle, Terrell, Barkley, Kubert and Moore voting aye.

Director Kohtz presented the 2013-2015 Biennium Budget to the Board for review. The Director outlined the Agency Narrative for the Board, then went through each line item budgeted expense and projected revenue for FY 13-14 and FY 14-15. Director Kohtz made note of any changes to the base budget, and also detailed any one time budgeted expenditures for FY 13-14. For FY 13-14, the Board is requesting additional funds to relocate from its current office space, upgrade the database, and develop and implement online applications. Changes to the entire 2013-2015 Biennium Budget includes additional funding to hire a contractor for investigative and USPAP compliance review purposes and a 5% increase to the Director's salary. Any other line item changes for FY 13-14 and FY 14-15 were general operational changes.

Director Kohtz indicated that the Board's expenses have historically averaged around 15% below the budgeted amount at the completion the fiscal year. Not taking into account any one time budgeted expenditures, the Director's goal for the FY 12-13, FY 13-14, and FY 14-15 budgets is to finish the fiscal year with expenditures around 10% below the budgeted amount. Based on the projections, if this goal is reached the expenditures and revenues for the base budget in FY 12-13 and FY 13-14 would end near even. A shortfall is projected for FY 14-15 due to low revenue projections for the fiscal year. The Director anticipates that additional revenue sources will need to be in place by 2017 based on current appraiser count projections.

The Board discussed Director Kohtz's performance and current salary in executive session. Board Member Barkley made a motion to increase the Director's salary to \$65,000.00 effective September 1, 2012. Board Member Kubert seconded the motion. The motion carried with Terrell, Barkley, Kubert, Woodle and Moore voting aye.

Board Member Barkley moved to accept the FY 12-13 Budget and 2013-2015 Biennial Budget as presented. Board Member Kubert seconded the motion. The motion carried with Woodle, Terrell, Barkley, Kubert and Moore voting aye.

Break from 2:35 p.m. to 2:45 p.m.

J. GENERAL PUBLIC COMMENTS

Chairman Moore asked for any public comments. With no comments the Chair proceeded to education.

K. EDUCATION

1. AQB/CAP Core Curriculum Requests: None

2. Continuing Education Renewal Requests: Board Member Barkley moved to take the following actions for continuing education courses as listed:

A. Appraisal Institute, Chicago, IL:

- 1. “Feasibility, Market Value, Investment Timing: Option Value” / 7 hours / C2225-I: **Approved****
- 2. “What Commercial Clients Would Like Appraisers to Know: How to Meet Their Expectations”/ 7 hr / C2860-I: **Hold; request updated information****
- 3. “Professional Guide to the URAR”/ 7 hr / C2729-I: **Hold; request updated information****
- 4. “On-Line/Real Estate Finance Statistics, & Valuation Modeling”/ 14 hours / C2393-I: **Approved****
- 5. “On-Line/Scope of Work: Expanding Range of Service”/ 7 hours / C2390-I: **Hold; request updated information****

Seconded by Kubert. Chairman Moore called for the vote. The motion carried with Terrell, Barkley, Kubert, Woodle and Moore voting aye.

2. Instructor Approval Requests: Board Member Barkley moved to take the following action for instructors as listed:

A. Appraisal Institute, Chicago, IL:

- 1. Kenneth Lusht - Feasibility, Market Value, Investment Timing: Option Value (C2225-I) and On-Line/Real Estate Finance Statistics, & Valuation Modeling (C2393-I): **Approved****
- 2. James Amorin - What Commercial Clients Would Like Appraisers to Know: How to Meet Their Expectations (C2860-I): **Hold; course not approved****
- 3. Thomas Kirby - Scope of Work: Expanding Range of Service (C2390-I): **Hold; course not approved****
- 4. Alan Simmons - Professional Guide to the URAR (C2729-I): **Hold; course not approved****

Second by Kubert. With no further discussion, Chairman Moore called for the vote. The Motion carried with Terrell, Barkley, Kubert, Woodle and Moore voting aye.

L. UNFINISHED BUSINESS

- 1. APPOINTMENT OF AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS UPDATE:** Eldon Terrell was appointed to the Nebraska Real Property Appraiser Board by Governor Heineman on July 24, 2012, and was sworn in prior to the start of the August 15, 2012 board meeting. Mr. Terrell's term expires on January 1, 2014. Chairman Moore welcomed Mr. Terrell to the Board.
- 2. BETTER DEFINING TRAINEE:** Director Kohtz presented a copy of 298 NAC Chapter 3 as effective in 2004, and a copy as effective in 2008. Much of the content found in the 2008 copy was moved to the Trainee Real Property Appraiser requirements. This move left little guidance for appraiser trainees not credentialed as Trainee Real Property Appraisers. The Board agreed that this matter needs to be addressed during the 2015 statute and rule changes. Some potential changes mentioned includes renaming appraiser trainee to something else, such as appraiser apprentice, and changing Certified General experience requirements to ensure that all non-residential experience is gained under the direct supervision of a Certified General Real Property Appraiser.
- 3. COUNTY APPRAISER CONTRACTS:** Chairman Moore was invited to a meeting by Larry Dix with NACO to discuss valuations and appraisal techniques at the county level. Mr. Dix is interested in legislation to address issues faced by county assessor offices. Some of these issues may have come to light as a result of the Board's letter sent to county assessors requesting information on appraiser contracts. Chairman Moore and Director Kohtz will attend the meeting for fact finding purposes. The Board is interested in knowing what concerns counties may have regarding valuations and appraisal techniques.
- 4. NEW CREDENTIAL UPDATE – TOM KUBERT:** No update
- 5. SUPERVISION FOR EXPERIENCE OBTAINED IN NON-TRADITIONAL AREAS:** Director Kohtz presented the response received from Magdalene Vasquez with the Appraisal Foundation to his email regarding supervision requirements for USPAP compliant experience gained through exempt work. Ms. Vasquez indicated that Real Property Appraiser Qualification Criteria does not require a formal supervisor relationship, but one must comply with the Competency Rule of USPAP. The Board felt that Ms. Vasquez's response did not address the Director's question.
- 6. NEW POCKET CARD:** Director Kohtz presented the changes as requested by the Board at the last meeting to Juli Jurgens with the Office of CIO. The pocket card will be designed on 8 1/2 x 11 paper, and will be incorporated into the Appraiser Login for each appraiser to print or download as many times as needed. The project has been expanded to include renewal applications in the Appraiser Login, and development of a fee table in the database to record payments received from appraisers. This addition will increase processing efficiency during the credential renewal period. The estimate for the entire project is \$8,143.00.

Board Member Kubert made a motion to give Director Kohtz the authority to proceed with the database upgrades as presented for an amount not to exceed \$8,500.00. Board Member Barkley seconded the motion. The motion carried with Barkley, Kubert, Woodle, Terrell and Moore voting aye.

M. NEW BUSINESS

1. **HARTMAN RECOGNITION:** The Board discussed former Board Member Dave Hartman's service to the State of Nebraska, and would like to honor Mr. Hartman for his time on the Board. The Board agreed that a dinner, plaque, and the traditional board member exit gift are appropriate. Board Member Moore will with check with Mr. Hartman for available times and a preferred location.
2. **NRPAB MISSION AND VISION STATEMENTS:** While working on the 2013-2015 Biennial Budget Narrative, Director Kohtz concluded that the Board's mission and vision statements no longer reflect what the Board is and what the Board is striving to become. The Director presented a revamped mission and vision statement for the Board to review. The board members agreed to review the mission and vision statement prior to the September meeting.

N. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. **NEW BOARD POLICIES:** Discussion took place regarding three new Board Policies introduced. Board Member Kubert moved to take the following actions as listed:

12-07 / Approved

12-08 / Approved

12-09 / Approved

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

- b. **CURRENT BOARD POLICIES:** Discussion took place regarding the current Board Policies. Director Kohtz was asked to move the retired policies to the back of the document. Director Kohtz will make this change prior to the next meeting.

2. **STANDARD 3 REVIEW FORM UPDATES:** Director Kohtz presented the Board with a copy of the Kentucky Real Estate Appraiser Board Standard 3 Compliance Form, and a Standard 3 Compliance Form previously used by NRPAB. The Board was impressed with the checklist style forms, and agreed that it should incorporate the checklist style into its Standard 3 Compliance Review Form. Board Member Woodle brought attention to a form that he favors, and will bring a copy to the next meeting for the Board to review.

O. OTHER BUSINESS

1. CONFERENCES/EDUCATION

- a. **FALL AARO CONFERENCE:** Board Members Barkley and Kubert indicated their interests in joining Chairman Moore and Director Kohtz at the Fall AARO Conference. Discussion took place regarding the October board meeting date. Board members and staff agreed that the date should be moved to accommodate those traveling for the AARO Conference. The fourth week in October is being considered. Director Kohtz will coordinate with board members to set a date for the meeting.

Board Member Barkley moved that the Board go back into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. The time on the meeting clock was 4:25 p.m. Board Member Kubert seconded the motion. The motion carried with Woodle, Terrell, Barkley, Kubert and Moore voting aye.

Board Member Barkley moved to come out of executive session at 4:42 p.m. Board Member Kubert seconded the motion. The motion carried with Terrell, Barkley, Kubert, Woodle and Moore voting aye.

C. CONSIDERATION OF APPLICANTS

- 1. CREDENTIALING AS NEBRASKA REAL PROPERTY APPRAISER:** Board Member Barkley moved to take the following actions for credentialing applicants as listed:

ST213 / Approved for Trainee License

L604R / Denied

L605R / Denied

CR391 / Hold; in addition to previous requirements put in place by the Board on July 19, 2012, and to qualify as a Licensed Real Property Appraiser, the Board requests that applicant have a USPAP Standard 3 compliance review completed by a certified appraiser for five appraisals from the log submitted to the Board on June 5, 2012. None of the five selected shall have been submitted to the Board for review. After the Standard 3 review is completed for each report, the applicant must revise each report to address any deficiencies found during the Standard 3 review, and submit the original appraisal report, the Standard 3 compliance review report, and revised appraisal report to the Board for review.

CR397R / Hold; send letter requesting written explanation describing nature of work and applicant's geographic competency.

CG642R / Hold; send letter requesting written explanation describing nature of work and applicant's geographic competency.

CG643R / Hold; send letter requesting written explanation describing nature of work and applicant's geographic competency.

CG644R / Hold; send letter requesting written explanation describing nature of work and applicant's geographic competency.

T212118 / Temporary permit approved

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

- 2. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:** Board Member Barkley moved to take the following actions for AMC applicants as listed:

NE2012084 / Approved

NE2012085 / Hold

NE2012086 / Hold

NE2012087 / Hold

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

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Barkley moved to take the following enforcement actions:

11-03 / Hold

11-04 / Hold

11-12 / Hold

11-13 / Hold; Board Member Kubert to make a list of questions to ask County Attorneys

11-21 / Hold

11-22 / Hold

11-26 / Offer Consent Agreement requiring Respondent to complete 15-Hour National USPAP course and 30-Hour General Appraiser Sales Comparison Approach course within six months of execution of agreement. Respondent Must also submit quarterly log for four subsequent quarters effective at the execution of agreement, and pay \$300.00 for costs associated with investigation within 30 days of execution of agreement.

11-27 / Hold

12-03 / Hold

12-06 / Hold; write letter to field analyst requesting information regarding assistance provided to appraiser for subject property.

12-10 / Offer informal hearing to Respondent

12-11 / Hold

12-12 / Hold

12-14 / Hold

12-15 / Hold

12-16 / Hold

12-18 / Hold; Board Member Kubert to make a list of questions to ask County Attorneys

12-19 / Hold

12-20 / Hold

12-21 / Hold

12-22 / Hold

12-23 / Request true copy of all appraisals and workfiles

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed an appraisal discovered by a board member during routine business. The appraisal appears to be non-compliant with the USPAP Standards, and the appraiser appears to have demonstrated negligence or incompetence in developing the appraisal. The Board agreed to open a new investigation, 12-24, for alleged violation of Neb. Rev. Stat. § 76- 2237 and § 76-2238 (10), (14), (16).

The Board reviewed information pertaining to an organization that allegedly engaged in business as an AMC in Nebraska without first obtaining registration issued by the Board. The organization was reported by the Director based on an email chain obtained from a Nebraska credentialed appraiser. The Board agreed that the organization needs to be notified of its obligations to adhere to the AMC Registration Act. This organization was assigned identification numbers I12-4.

A Certified Residential Appraiser whose education was found to be deficient during the Appraisal Subcommittee's 2011 audit made a written request to the Board for an extension to the education requirement deadline. The Board agreed to extend the deadline to December 31, 2012.

Vice Chair Barkley moved to take the following actions for the above mentioned matters:

- 12-24 / Open investigation 12-24 and request true copy of appraisal and workfile**
- I12-4 / Send letter notifying organization of its obligation to adhere to the AMC Registration Act**
- CR211039 / Extend education deadline to December 31, 2012.**

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

Director Kohtz brought attention to a \$25,020.00 retainer fee paid by the Board in 2009 for legal services. The Director explained that this retainer should not have been paid by the Board, because under normal circumstances, state agencies are only allowed to pay for services rendered. Also, the board meeting minutes do not show that any such retainer was approved by the Board, and AAG Hart has no recollection of the retainer being discussed with the Attorney General's Office. The Board received a refund in the amount of \$2,020.80.

The Board discussed current credential holders that were awarded credentials with a restricted scope of work by past boards. Director Kohtz presented additional background information related to this matter. The Board agreed to continue discussion at the September Board Meeting.

P. NEXT MEETING DATE – SEPTEMBER 20, 2012, LOWER LEVEL CONFERENCE ROOM, EXECUTIVE BUILDING, 521 SOUTH 14TH STREET, LINCOLN, NE

Q. ADJOURNMENT

Board Member Barkley moved to adjourn the meeting. Board Member Kubert seconded the motion. Motion carried with Barkley, Kubert, Woodle, Terrell and Moore voting aye.

At 4:46 p.m. Chairman Moore adjourned the August 15, 2012 meeting of the Real Property Appraiser Board. The next meeting is scheduled for September 20, 2012 in the Lower level Conference Room of the Executive Building.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on August 29, 2012, in compliance with Nebraska Statute §84-1413(5).