

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

May 15, 2014 Meeting Minutes

A. OPENING

Chairman Philip Barkley called to order the May 15, 2014 meeting of the Nebraska Real Property Appraiser Board at 9:02 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 Barkley 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 May 13, 2014 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 Philip Barkley, Tom Kubert, Larry Saxton, Marc Woodle, and Chris Langemeier were present. Also present were Director, Tyler Kohtz, Compliance and Education Specialist, Joya Weir, and Business and Licensing Specialist, Natasha Olsen.

ADOPTION OF THE AGENDA

Chairman Barkley 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 Kubert moved to adopt the agenda as printed. Board Member Langemeier seconded the motion. With no further discussion, the motion carried with Woodle, Saxton, Langemeier, Kubert and Barkley voting aye.

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

Board Member Kubert 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 9:04 a.m. Board Member Woodle seconded the motion. The motion carried with Langemeier, Kubert, Saxton, Woodle and Barkley voting aye.

Break from 9:40 a.m. to 9:50 a.m.

William G. Blake appeared before the Board

Adam Musiel and Robert B. Creager appeared before the Board

Break from 11:10 a.m. to 11:20 a.m.

Board Member Kubert moved to come out of executive session at 11:55 p.m. Board Member Langemeier seconded the motion. The motion carried with Saxton, Woodle, Kubert, Langemeier and Barkley voting aye.

Break from 11:55 a.m. to 12:03 p.m.

F. WELCOME AND CHAIR'S REMARKS

Chairman Barkley brought to attention that this is the final board meeting for Compliance and Education Specialist, Joya Weir. The Chairman expressed his gratitude to Ms. Weir for her hard work and dedication to the Board, and wished her the best on her future endeavors. Chairman Barkley presented a clock to Ms. Weir showing the Board's appreciation for her service. There were no public members were in attendance.

G. BOARD MEETING MINUTES

1. APPROVAL OF APRIL 24, 2014 MEETING MINUTES

Chairman Barkley asked for any additions or corrections to the April 24, 2014 minutes. Board Member Kubert brought attention to applicant T14011 under Section C on Page 9, and indicated that this action should include "send advisory letter." Board Member Kubert also stated that the action for applicant L13002 under the same section and on the same page should include "for traditional clients" between "reports" and "completed" on the first line. For the last change on Page 9, Board Member Kubert offered that applicant CG13009 needs to be added to the motion, and the action for CG13009 should be "Send appraisal reports and workfiles for Standard 3 review." Board Member Kubert then brought attention to the action for I14-13 under Section F on Page 12. The action should include "and send for Standard 3 review" after "workfile" in the first sentence. Director Kohtz informed the Board that the corrections will be made. With no further discussion Board Member Kubert moved to adopt the minutes as amended. Board Member Saxton seconded the motion. The motion carried with Woodle, Langemeier, Kubert, Saxton and Barkley voting aye.

H. DIRECTOR'S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of May 15, 2014. The Director summarized each chart and reported the number of appraisers as follows: 74 total Licensed, 70 resident and 4 reciprocal; 221 total Certified Residential, 178 resident and 43 reciprocal; 389 total Certified General, 253 resident and 136 reciprocal; and 5 Registered for a total of 689 appraisers. The total number of appraisers is up 13 from April, and up 9 from May 2013. The Director also informed the Board that there are 49 Trainees, which is up 5 from April, and up 38 from May 2013. Director Kohtz informed the Board that the appraiser count trend from year to year is showing an increase in the number of credentialed real property appraisers, and noted that this is positive news considering the trend during recent years.

In addition, the Director addressed the number of temporary permits issued. There were 9 permits issued in April compared to 11 permits issued in March. As of April 30, 2014, 33 temporary permits have been issued for the calendar year. Finally, Director Kohtz reported 108 AMCs registered, and no new AMC applications have been submitted since the last meeting.

The Director finished the report by thanking Compliance and Education Specialist Weir for her service. Director Kohtz informed the Board that Ms. Weir entered into a difficult situation because the position did not previously exist, but flourished under the circumstances. Ms. Weir made the position what it is today.

I. FINANCIAL REPORT – MAY 2014

The receipts and expenditures for April were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific April expenses. Chairman Barkley asked what the “AS Transportation Services” on page I.7 were for. Director Kohtz indicated that these were charges for his use of a state vehicle. Board Member Kubert asked why the expense shown under “Dues and Subscriptions Expense” on the Budget Status Report does not match the “Lincoln Journal Star – Payment” expense on page I.6 on the MTD General Ledger. Director Kohtz informed the Board that two transactions exist for the majority of expenses because of the allocation between the Appraiser Fund and the AMC Fund. The expense for “Lincoln Journal Star – Payment” on pages I.6 and I.9 on the MTD General Ledger will add up to equal the amount shown on the Budget Status Report. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$37,955.61 in expenditures and \$12,740.47 in revenues were reported. As of the end of April, expenses amount to 71.12 percent of the budgeted expenditures for the fiscal year; 83.29 percent of the fiscal year has passed. Finally, Director Kohtz presented three charts outlining the Agency twelve month expenses and revenues, historic cash balance, and twelve month cash balance.

Board Member Kubert moved to accept and file the April 2014 budget reports for audit. Board Member Saxton seconded the motion. The motion carried with Langemeier, Woodle, Kubert, Saxton and Barkley voting aye.

J. GENERAL PUBLIC COMMENTS

Chairman Barkley asked for any public comments. With no further comments, the Chair proceeded to education.

K. EDUCATION

Board Member Kubert moved to approve the following education requests as listed:

1. Continuing Education Renewal Requests

A. Randall School of Real Estate

- 1. Valuing Small Businesses (C0216) - 3 hours**
- 2. Radon and Real Estate: Revealing Rumors and Finding Facts (C0023) - 3 hours**

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

Board Member Kubert moved to approve the following instructor request as listed:

A. Randall School of Real Estate

1. James Zipursky

- a. Valuing Small Businesses (C0216)**

2. Debbie Kalina

- a. Radon and Real Estate: Revealing Rumors and Finding Facts (C0023)**

3. Patrick Casey

- a. Home Inspection: Assessing Property Condition (C21121)**

B. CRE Summit

1. Jerry Slusky

- a. CRE Summit (C21120)**

Seconded by Woodle. With no further discussion, Chairman Barkley called for the vote. The motion carried with Langemeier, Woodle, Kubert, Saxton and Barkley voting aye.

L. UNFINISHED BUSINESS

1. AQB APPROVAL REQUIREMENT FOR BOARD APPROVED QUALIFYING

EDUCATION: Director Kohtz presented documentation concerning The Appraisal Foundation's Course Approval Program for the Board to review. Discussion took place regarding the Board's requirement that core curriculum qualifying education be AQB approved. After review of the information, the board members agreed that the Board and its staff are capable enough to review course information and ensure that a specific structure is met; however, board members expressed concern that the Board and staff do not have the capabilities or resources to accurately assess appraiser theory and methodology. In addition, Board Member Barkley mentioned that internal course review of this magnitude would be very time consuming and put strain on the Board's staff as well. Discussion also included the possibility of contracting with an outside entity for course review. Two concerns were brought to attention regarding this option. First, there is no person or business that can assure the Board that he, she, or it is any more qualified than the Board to evaluate qualifying education courses; and second, Board Member Kubert noted that it appears that the costs associated with a contract for qualifying education course review would be in line with what is currently charged by The Appraisal Foundation to education providers for CAP approval. The Board agreed that no action is needed at the present time regarding the current policy, but that this matter should be reviewed from time to time.

2. COMPLIANCE AND EDUCATION SPECIALIST POSITION: Director Kohtz updated the Board on the hiring process for the Compliance and Education Specialist position. The Director indicated that three more potential interviewees have been identified, and he is waiting for the second round assessments to be completed. Director Kohtz stated that he hopes to have the hiring process complete before the next board meeting.

3. COUNTY APPRAISER CONTRACTS UPDATE: Chairman Barkley informed the Board that he had a meeting with a group of western Nebraska assessors recently. One of the items discussed during that meeting was LB685; specifically, the proposed addition of the "associate credential" to the Real Property Appraiser Act. The assessors in attendance at this meeting appear to have been misinformed regarding the Board's intent with the associate credential. Chairman Barkley indicated that he discussed the purpose of this additional credential with the group, and also informed the group that the Board's only intent was to provide a designation to interested individuals evidencing that the individual has completed some education in the appraisal field. The feedback board member Barkley received from the western Nebraska group is that the Board's intent was to necessitate that any person doing mass appraisal work in the state would be required to hold at least the associate credential. Chairman Barkley informed the group that the Board has no interest in how or if a county, or any other entity, would choose to utilize the credential, and the Board has no interests in regulating assessors' offices in any way. No action was taken.

M. NEW BUSINESS

1. LIABILITY ISSUES FOR APPRAISERS PERFORMING LITIGATION AND OTHER

NON-LEADING WORK: Director Kohtz informed the Board that Board Member Woodle asked for this matter to be placed on the agenda. Board Member Woodle indicated that he wanted the other board members to be aware of this issue, and offer any comments on the topic. Director Kohtz reminded the Board of a power point presentation that he sent to each board member regarding this issue, and added that the power point presentation was very informative, and recommended that the board members review if they have not already done so. No action was taken.

2. REVIEW APPRAISERS AT GREATER RISK FROM LAWSUITS, ATTORNEY SAYS:

No discussion; the information was covered with agenda item M-1.

- 3. AQB APPROVAL FOR UNO REAL ESTATE DEGREE PROGRAM:** Discussion took place regarding the Board's current relationship with the UNO Real Estate program. Board Member Kubert made a motion to move this item to long range planning. The motion was seconded by Woodle, and carried with Kubert, Woodle, Langemeier, Saxton and Barkley voting aye.

N. LEGISLATIVE REPORT AND BUSINESS

- 1. LR499:** Director Kohtz informed the Board that he discussed the study of the Nebraska Real Property Appraiser Act with the Banking, Commerce, and Insurance Committee's legal counsel, Bill Marienau. Mr. Marienau indicated that Senator Gloor is supportive of the study, and that any bill that comes out of the study would still be the Board's bill. Chairman Barkley asked about the pros and cons. Director Kohtz responded that the pros include Senators being more comfortable with the language in the bill, developing a better understanding of others' positions, and addressing issues with the Banking, Commerce, and Insurance Committee's involvement; the goal is to draft a bill that can move out of committee without opposition. Director Kohtz indicated that the cons are the same as if the Board drafted a bill on its own; opposition could derail the progress. Director Kohtz went on to say that nothing would be introduced without the Board's full support, and he would keep the Board updated on any progress made. No further questions were asked by the Board. Director Kohtz asked for permission to work with Bill Marienau on the study of the Nebraska Real Property Appraiser Act. Board Member Kubert made the motion to approve Director Kohtz to work with the Legislative Committee legal counsel on the study of the Nebraska Real Property Appraiser Act. The motion was seconded by Woodle, and carried with Kubert, Woodle, Langemeier, Saxton and Barkley voting aye.
- 2. TITLE 298:** Director Kohtz informed the Board that he has begun reformatting Title 298 to begin drafting the rules changes.

O. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. Current Board Policies:** No discussion.
- b. New Board Polices:** The Board reviewed drafted Board Policy 14-02 concerning the acceptability of experience obtained in another jurisdiction. Director Kohtz explained that this policy was drafted during the development of the new resident appraiser application. He was reviewing possible experience scenarios, attempting to establish any scenario that may cause problems for the new application. The Director indicated that he came up with one scenario that needs to be addressed by the Board. How does the Board evaluate experience obtained in another jurisdiction by an individual that recently moved to Nebraska and does not hold a Nebraska credential as a trainee real property appraiser? Director Kohtz informed the Board that he drafted this policy to begin the conversation. Board Member Kubert asked that a limit be placed on experience obtained in another jurisdiction. Director Kohtz asked for a number, and Board Member Kubert specified at least 25%, but the Board may require more. Director Kohtz indicated that he will revise Board Policy 14-02, and present it at the June meeting.

2. APPRAISER FORMS AND PROCEDURES

- a. **Application for Nebraska Resident Real Property Appraiser Credential:** Director Kohtz presented the Application for Nebraska Resident Real Property Appraiser Credential form to the Board for review. The Board asked that the question numbers be corrected on Page 2 of the form, and that “if applicable” be removed from question #9a. Board Member Langemeier also requested that a “Date Completed” field be added to Section 3 of the form for Basic Appraisal Principles, Basic Appraisal Procedures, and the 15-Hour USPAP course. Finally, staff was asked to include “up to July 1st” to the end of #2 under the heading “Renewal Information” on Page 9. The Director informed the Board that these changes will be made. Board Member Saxton made a motion to approve the Application for Nebraska Resident Real Property Appraiser Credential form as amended. The motion was seconded by Langemeier, and carried with Kubert, Woodle, Saxton, Langemeier and Barkley voting aye.
- b. **Applicant Experience Log:** Director Kohtz presented the Applicant Experience Log to the Board for review. The Board asked that a “Date” field be added for the supervisory appraiser, and that a note be added that directs the applicant to expand the description of work on a separate sheet if needed. Director Kohtz also added that the date and signature fields will be reversed. With no further discussion, Board Member Kubert made a motion to approve the Applicant Experience Log as amended. The motion was seconded by Saxton, and carried with Langemeier, Woodle, Kubert, Saxton and Barkley voting aye.
- c. **Guidelines for Applicant Report Review:** No discussion.
- d. **Real Property Appraiser Information Change Form:** Director Kohtz presented the Real Property Appraiser Information Change Form to the Board for review. Director Kohtz was asked what the purpose of such a form is. The Director responded that the form is intended to ensure that the Board has an accurate record of changes made to an appraiser’s contact information. Discrepancies often arise during the normal course of business related to contact changes. If the Board accepts the contact change over the phone, the Board is placed in a difficult situation if a discrepancy arises. This form should alleviate these problems. The Board asked that the notary requirement be removed. With no further discussion, Board Member Kubert made a motion to approve the Real Property Appraiser Information Change Form as amended. The motion was seconded by Woodle, and carried with Kubert, Saxton, Woodle, Langemeier and Barkley voting aye.

3. COMPLIANCE FORMS AND PROCEDURES

- a. **Appraisal Management Company Grievance Form:** Director Kohtz presented the Appraisal Management Company Grievance Form to the Board for review. The Board asked that “Original” be changed to “Submitted” under “Documents Submitted” on Page 4. Director Kohtz informed the Board that this change will be made. Board Member Kubert made a motion to approve the Appraisal Management Company Grievance Form as amended. Board Member Langemeier indicated that the section referring to documentation is confusing. Something needs to be added, such as “e.g.” Director Kohtz indicated that “e.g.” will be added before “invoices, contracts, letters, etc.” Board Member Kubert made a second motion to approve the Appraisal Management Company Grievance Form as amended. The motion was seconded by Langemeier, and carried with Saxton, Kubert, Langemeier, Woodle and Barkley voting aye.
- b. **Consent Agreement Reference Checklist:** An email from Bill Blake concerning the development and use of a consent agreement checklist was discussed by the Board. Mr. Blake recommended against the use of a checklist. Board Member Kubert asked that this item be removed from the agenda. No action was taken.

c. **NRPAB Enforcement Process:** Director Kohtz presented The Nebraska Real Property Appraiser Board's Enforcement Process website document to the Board for review. The Director offered his apology for posting the document to the website without prior Board approval, and apologized for misunderstanding Chairman Barkley's request. Chairman Barkley indicated that no apology is needed. Director Kohtz informed the Board that he has emailed the document to AAG Hart for review and commenting. This matter will be placed on the June meeting agenda.

4. **APPLIED MEASUREMENT PROFESSIONALS TESTING SERVICE CONTRACT FOR FY2014-15:** The Board reviewed the contract for testing services for FY 2014-15. There were no concerns found in the contract. Board Member Kubert made a motion to approve the Applied Measurement Professionals Testing Service Contract for 2014-15 as presented. The motion was seconded by Saxton, and carried with Woodle, Langemeier, Kubert, Saxton and Barkley voting aye. The contract was signed and executed by Chairman Barkley.

Q. OTHER BUSINESS

1. BOARD MEETINGS

a. **Strategic Planning Board Meeting Date:** Director Kohtz asked for date recommendations for the 2014 Strategic Planning Meeting. A discussion took place regarding potential June dates. Board Member Langemeier made a motion to hold the 2014 Strategic Planning Meeting on Wednesday, June 18, 2014, at 9:00 a.m. Board Member Woodle seconded the motion, and the motion carried with Saxton, Kubert, Woodle, Langemeier and Barkley voting aye.

2. **CONFERENCES/EDUCATION:** No discussion.

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

Break from 1:34 p.m. to 1:41 p.m.

Board Member Kubert moved that the Board go back into executive session for the purpose of reviewing applicants for credentialing, applicants for appraisal management company registration, investigations, and other sensitive matters. The time on the meeting clock was 1:41 p.m. Board Member Saxton seconded the motion. The motion carried with Woodle, Langemeier, Saxton, Kubert and Barkley voting aye.

Board Member Kubert moved to come out of executive session at 2:09 p.m. Board Member Langemeier seconded the motion. The motion carried with Saxton, Woodle, Kubert, Langemeier and Barkley voting aye.

C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER:

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

T2014018 / Approve Additional supervisory appraiser.

T14013 / Deny

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

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

- CR14010 / Approve to sit for exam; select and send three reports for review.**
- CG14021 / Approve to sit for exam; select and hold five reports for review.**
- CG14015 / Approve to sit for exam; select and send three reports for review.**
- CG14022 / Deny**
- CG14020R / Approve as Certified General Real Property Appraiser.**
- CG14024R / Deny**
- CG14023R / Deny**
- CR13015 / Deny; order applicant to complete, and successfully pass examination, for a 30-Hour Residential Sales Comparison and Income Approach course in a classroom and not online or by correspondence, and reapply for credentialing in no less than 6 months from date of denial.**
- L13002 / Hold**
- CR13014 / Hold**
- CR13009 / Hold**
- CG14001 / Hold**
- CR14003R / Hold**
- CG14006R / Hold**
- L14001 / Invite to advisory meeting. Board Member Kubert assigned.**
- CR14006 / Hold**
- CG14011 / Hold**
- CG14010 / Invite to advisory meeting. Board Member Langemeier assigned.**
- CG14014 / Hold**

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

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Kubert moved to take the following enforcement actions:

- 12-11 / Consent Agreement signed by Board Chair.**
- 13-06 / Hold**
- 13-09 / Hold**
- 13-14 / Hold**
- 13-15 / Hold**

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

Vice Chair Kubert moved to take the following enforcement actions:

- 13-10 / Hold**
- 13-13 / Hold**
- 13-23 / Hold**
- 13-24 / Hold**
- 13-25 / Hold**
- 13-26 / Hold**
- 14-15 / Hold**
- 14-16 / Hold**
- 14-17 / Hold**
- 14-18 / Hold**

14-19 / Hold
14-20 / Hold

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

Board Member Woodle moved to take the following enforcement actions:

12-24 / Hold
12-29 / Hold
13-18 / Hold
13-19 / Accept Hearing Officer Agreement; agreement signed by Board Chair.
13-27 / Hold
14-21 / Dismiss without prejudice; send advisory letter.
14-22 / Hold
14-23 / Hold
14-24 / Hold
14-25 / Hold
14-26 / Hold
14-27 / Hold

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

Vice Chair Kubert moved to take the following enforcement actions:

13-21 / Hold

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

Vice Chair Kubert moved to take the following enforcement actions:

14-11 / Hold

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS:

The Board discussed new information concerning I13-4.

The Board discussed the response received, along with additional information provided, concerning inquiry I13-7.

The Board discussed the Standard 3 review results pertaining to inquiry I14-11.

The Board discussed inquiry I14-12.

The Board discussed information concerning a letter and supporting documentation received from a Respondent in a previous Board investigation.

The Board discussed a letter from a Nebraska credentialed appraiser requesting permission to provide copies of appraisal report reviews completed for the Board to the Appraisal Institute for designation as a commercial review appraiser.

Vice Chair Kubert moved to take the following actions for other executive session items:

- I13-4 / Hold**
- I13-7 / Close**
- I14-9 / Hold**
- I14-11 / Close; open investigation 14-28 for the alleged violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (13), (14), and offer an informal meeting. Board Member Saxton appointed as Investigating Board Member.**
- I14-12 / Request that Mr. Blake follow up on Board's original inquiry.**
- I14-13 / Close; open investigation 14-27 for the alleged violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (13), (14), and request true copy of appraisal report and workfile. Board Member Kubert assigned as Investigating Board Member.**
- Item 6 / No action.**

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

Board Member Woodle moved to take the following actions for other executive session items:

- Item 7 / Approve request to allow release of review reports with preference of redaction to remove all sensitive information.**

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

R. ADJOURNMENT

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

At 2:21 p.m. Chairman Barkley adjourned the May 15, 2014 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on May 27, 2014, in compliance with Nebraska Statute §84-1413 (5).