

Amended at the September 18, 2014 board meeting

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

June 19, 2014 Meeting Minutes

A. OPENING

Chairman Philip Barkley called to order the June 19, 2014 meeting of the Nebraska Real Property Appraiser Board at 9:11 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 June 17, 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 9:12 a.m. Board Member Langemeier seconded the motion. The motion carried with Woodle, Langemeier, Saxton, Kubert and Barkley voting aye.

Board Member Langemeier was excused, and exited the meeting at 10:33 a.m.

Break from 10:33 a.m. to 10:42 a.m.

Board Member Kubert moved to come out of executive session at 12:04 p.m. Board Member Woodle seconded the motion. The motion carried with Saxton, Kubert, Woodle and Barkley voting aye.

Break from 12:04 a.m. to 12:17 p.m.

G. WELCOME AND CHAIR’S REMARKS

Chairman Barkley thanked board members and staff for attending meetings two days in a row, and expressed his appreciation for the work put in yesterday at the strategic planning meeting.

H. BOARD MEETING MINUTES

1. APPROVAL OF MAY 15, 2014 MEETING MINUTES

Chairman Barkley asked for any additions or corrections to the May 15, 2014 minutes. With no further discussion Board Member Kubert moved to adopt the minutes as presented. Board Member Woodle seconded the motion. The motion carried with Kubert, Woodle, Saxton and Barkley voting aye.

I. DIRECTOR’S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of June 19, 2014. The Director summarized each chart and reported the number of appraisers as follows: 76 total Licensed, 72 resident and 4 reciprocal; 222 total Certified Residential, 179 resident and 43 reciprocal; 390 total Certified General, 253 resident and 137 reciprocal; and 5 Registered for a total of 693 appraisers. The total number of appraisers is up 4 from May, and up 10 from June 2013. The Director also informed the Board that there are 49 Trainees, which is the same as May, and up 41 from June 2013.

In addition, the Director addressed the number of temporary permits issued. There were 7 permits issued in May compared to 9 permits issued in April. As of May 31, 2014, 40 temporary permits have been issued for the calendar year. Finally, Director Kohtz reported 108 AMCs registered, and one new AMC applications has been submitted since the last meeting.

The Director finished the report by thanking board members and staff for its hard work yesterday, and for its continued service to the State of Nebraska.

J. FINANCIAL REPORT – JUNE 2014

The receipts and expenditures for May were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific May expenses. Board Member Saxton asked if the Board can get reimbursed for the \$20.00 charge for insufficient funds related to a renewal application. Director Kohtz responded that he does not believe so, but will check into it the next time that this occurs. Chairman Barkley asked if this is cause to start enforcement. Director Kohtz indicated that it is; however, the appraiser recognized the problem and sent another check before staff was notified of the insufficient funds. Business and Licensing Specialist Olsen added that the appraiser’s bank account was closed. Director Kohtz indicated that because the appraiser recognized the issue and provided another check, he did not see a reason to pursue an enforcement. There were no further questions asked. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$27,074.28 in expenditures and \$9,620.71 in revenues were reported. As of the end of May, expenses amount to 77.76 percent of the budgeted expenditures for the fiscal year; 91.78 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 May 2014 budget reports for audit. Board Member Saxton seconded the motion. The motion carried with Woodle, Saxton, Kubert and Barkley voting aye.

K. GENERAL PUBLIC COMMENTS

Chairman Barkley asked for any public comments. Director Kohtz introduced the agency's new Budget Analyst, Robin Kilgore, to the Board. Ms. Kilgore thanked the Board for letting her attend the meeting, and expressed interest in attending more meetings in the future as time permits. Ms. Kilgore indicated that she is looking forward to working with the Board.

L. EDUCATION

Board Member Kubert moved to take the following actions on education and instructor requests as listed:

1. New Continuing Education Requests

A. International Association of Assessing Officers

1. Appraisal of Land (C21417) / 30 hours - *Deny*

B. International Right of Way Association

1. The Valuation of Environmentally Contaminated Real Estate (C21418) /15 hours - *Deny*

C. McKissock, L.P.

1. The Sales Comparison Approach Course (C21419-I) / 7 hours - *Approve*
2. Appraisal of Assisted Living Facilities (C21420-I) / 8 hours - *Approve*

D. Appraisal Institute

1. Review Case Studies-General (C21421) / 30 hours - *Approve*

2. Continuing Education Renewal Requests

A. Randall School of Real Estate

1. Understanding New Construction (C0120) / 3 hours- *Approve*

B. McKissock, L.P.

1. 2-4 Family Finesse (C9314-I) / 7 hours - *Approve*

3. Instructor Requests

A. Randall School of Real Estate

1. Dean Uhing

- a. Understanding New Construction (C0120) - *Approve*

B. International Association of Assessing Officers

1. John Ulibarri

- a. Appraisal of Land (C21417) - *Deny*

C. International Right of Way Association

1. Richard Dickson

- a. The Valuation of Environmentally Contaminated Real Estate (C21418) - *Deny*

D. McKissock, L.P.

1. Alan Simmons

- a. The Sales Comparison Approach (C21419-I) - *Approve*
- b. 2-4 Family Finesse (C9314-I) - *Approve*

2. Dan Bradley

- a. Appraisal of Assisted Living Facilities (C21420-I) - *Approve*

E. The Moore Group

1. Bradford Moore

- a. Residential Market Analysis & Highest and Best Use (L/CR004) - *Approve*
- b. Residential Site Valuation & Cost Approach (L/CR005) - *Approve*

2. Diane Moore

- a. Residential Market Analysis & Highest and Best Use (L/CR004) - *Approve*
- b. Residential Site Valuation & Cost Approach (L/CR005) - *Approve*

F. Appraisal Institute

1. Sandra Adomatis

- a. Review Case Studies- General (C21421) - *Approve*

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

M. UNFINISHED BUSINESS

- 1. COMPLIANCE AND EDUCATION SPECIALIST POSITION:** Director Kohtz informed the Board that Anthony Dreesen has been offered and accepted the position. He will officially start on June 23, 2014.
- 2. COUNTY APPRAISER CONTRACTS UPDATE:** Board Member Kubert presented the Attorney General's response to the Franklin County Attorney's request for an opinion concerning the Board's inquiry into contracts for appraisal services held by the county. Board Member Kubert summarized the Attorney General's response in which no opinion was provided, and indicated that the Attorney General directed the county attorney to the Nebraska Real Property Appraiser Board with questions about this matter.

N. NEW BUSINESS

- 1. OPEN 3RD CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION:** Chairman Barkley asked that this matter be placed on the agenda to begin discussions concerning the incoming board member at the beginning of 2015. Chairman Barkley asked Director Kohtz when the Board has begun advertising for open board member positions in the past. Director Kohtz informed the Board that advertising typically begins in September. Chairman Barkley asked if advertising needs to begin sooner, given the number of appraisers available for this position. The Board agreed that this item should remain on the agenda, but no action is needed at the present time.
- 2. REQUIREMENTS FOR QUALIFYING EDUCATION COMPLETED IN ANOTHER JURISDICTION:** Discussion took place regarding the Board's current requirement that all core curriculum qualifying education must be AQB approved, and how education obtained in other jurisdictions is affected by this. The conversation was based on the language found in 298 NAC Chapter 4, Section 004.05, which says that the Board may accept education obtained in another jurisdiction that has been approved to meet the education requirements for such jurisdiction, if that jurisdiction has adopted and enforces standards for education equivalent to those found in Title 298. One potential issue is that other jurisdictions may not require qualifying education to be AQB approved, which would mean that the education is not equivalent to the standards found in Title 298. Director Kohtz informed the Board that it has not historically looked for AQB approval of courses completed in other jurisdictions when considering an application. The Board asked Director Kohtz to contact the surrounding states to obtain those states' policies regarding qualifying education and AQB approval. Director Kohtz indicated that a report will be provided at the July meeting.

O. LEGISLATIVE REPORT AND BUSINESS

1. **LR499:** Director Kohtz informed the Board that he will meet with the Banking, Commerce, and Insurance Committee’s legal counsel, Bill Marienau tomorrow to begin work on drafting language for a new bill.

2. **TITLE 298:** Director Kohtz informed the Board that he has made significant progress updating Title 298, and that he is approximately half way done with this task. Work on Title 298 will slow down during the next month because work will begin on the Board’s next biennium budget request and the new Compliance and Education Specialist will begin.

P. 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 at its May meeting, and asked that a limit be placed on experience obtained in another jurisdiction. Director Kohtz presented an updated Board Policy 14-02 for the Board to review. The question was asked, “Does the Board have to accept experience obtained in another jurisdiction?” Director Kohtz responded by saying that this policy is a guide; the Board does not have to accept experience not considered to be acceptable by the Board. With no further discussion, Board Member Kubert made a motion to approve Board Policy 14-02 as presented. The motion was seconded by Woodle, and carried with Saxton, Woodle, Kubert and Barkley voting aye.

2. APPRAISER FORMS AND PROCEDURES

- a. **Application for Trainee Real Property Appraiser Credential:** Director Kohtz presented the Application for Trainee Real Property Appraiser Credential form to the Board for review. The Board asked that the first sentence regarding qualifying education completed in another jurisdiction on Page 4 of the form be simplified to say, “For any courses taken outside of the State of Nebraska, please include documentation indicating course approval from that jurisdiction. The Director informed the Board that this sentence will be updated. Board Member Kubert made a motion to approve the Application for Trainee Real Property Appraiser Credential form as amended. The motion was seconded by Saxton, and carried with Saxton, Woodle, Kubert and Barkley voting aye.

- b. **Application for Supervisory Appraiser Registration:** Director Kohtz presented the Application for Supervisory Appraiser Registration form to the Board for review. With no discussion, Board Member Kubert made a motion to approve the Application for Trainee Real Property Appraiser Credential form as presented. The motion was seconded by Saxton, and carried with Saxton, Woodle, Kubert and Barkley voting aye.

3. NRPAB ENFORCEMENT PROCESS: Director Kohtz presented the Nebraska Real Property Appraiser Board's Enforcement Process website document to the Board for review. The Board asked that the last sentence be removed from the second paragraph, the title for #2 under the heading "Outcomes" be changed to "Dismissal With Advisory Letter," and "and are not made public" is added to the end of the last sentence under the "Dismissal With Advisory Letter" paragraph on page 2 of the document. The Board also asked that "All information as to" be removed from the second sentence in the first paragraph, "Information will remain on the Board's website for a maximum of ten years" be added to the end of the first paragraph, and "All information as to" be removed from the second to last sentence in the second paragraph on page 3. Director Kohtz informed the Board that these changes will be made. Board Member Kubert made a motion to approve the NRPAB Enforcement Process for posting to the Board's website as amended. The motion was seconded by Woodle, and carried with Kubert, Woodle, Saxton and Barkley voting aye.

4. EDUCATION FORMS AND PROCEDURES

a. Education Course/Instructor Board Review Forms: The Board reviewed three education course review forms, and one instructor review form. Director Kohtz informed the Board that these forms were created to replace the paragraphs currently found in the Board Packet concerning education offerings and instructors. The intent is to create a form that is easier for the Board to locate and evaluate information pertaining to each course or instructor. With no further discussion, Board Member Kubert made a motion to approve the Qualifying Education Application, Continuing Education Application, Continuing Education Renewal Application, and Instructor Applications review forms as presented. The motion was seconded by Woodle, and carried with Saxton, Kubert, Woodle and Barkley voting aye.

b. 7-Hour Supervisory Appraiser and Trainee Course: Director Kohtz informed the Board that he and Chairman Barkley have begun discussing the curriculum requirements for the 7-Hour Supervisory Appraiser and Trainee Course that will become a requirement on January 1, 2015 for all Trainee Real Property Appraiser and all Supervisory Appraiser registration applicants. The Director went on to say that the original plan was to have the Rules in place prior to the first of the year, but that is not a realistic expectation. The current plan is to develop guidelines for this course that will be incorporated into the Rules as education is addressed. Director Kohtz finished by saying that he, along with Chairman Barkley, will prepare a draft of the guidelines for presentation at the July meeting.

Q. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

2. CONFERENCES/EDUCATION: No discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. THE APPRAISAL FOUNDATION

a. What Ifs (May 15, 2014): Director Kohtz presented a document published by The Appraisal Foundation titled "What Ifs." The Director stated that he didn't have anything specifically to discuss, but found the document interesting and wanted the Board to have an opportunity to comment. Chairman Barkley agreed that the document was very interesting. No further discussion took place.

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 1:44 p.m. Board Member Saxton seconded the motion. The motion carried with Woodle, Kubert, Saxton and Barkley voting aye.

Board Member Kubert moved to come out of executive session at 2:50 p.m. Board Member Woodle seconded the motion. The motion carried with Saxton, Woodle, Kubert 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:

- T14021 / Approve as Trainee Real Property Appraiser.**
- T14019 / Approve as Trainee Real Property Appraiser.**
- T14014 / Approve as Trainee Real Property Appraiser.**
- T14017 / Approve as Trainee Real Property Appraiser.**
- T14018 / Approve as Trainee Real Property Appraiser.**
- T14020 / Approve as Trainee Real Property Appraiser.**

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

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

- T14016 / Approve as Trainee Real Property Appraiser.**
- T14015 / Approve as Trainee Real Property Appraiser.**

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

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

- CR14011 / Approve to sit for exam; select and send three reports for review.**
- CG14026R / Approve as Certified General Real Property Appraiser.**
- CG14028R / Approve as Certified General Real Property Appraiser.**
- CG14027R / Approve as Certified General Real Property Appraiser.**
- CG14025R / Approve as Certified General Real Property Appraiser.**
- L13002 / Send two appraisal reports and associated workfiles for Standard 3 review, and applicant ordered to pay an amount not to exceed \$450.00 for cost of review.**
- CR13014 / Hold**
- CR13009 / Deny; applicant ordered to complete, and successfully pass examination, for a 15-Hour Residential Report Writing and Case Studies course in a classroom and not online or by correspondence, and reapply for credentialing in no less than 6 months from date of completion of education. Applicant is also requested to complete an additional 1250 hours of appraisal experience for a traditional client in accordance with Board Policy 14-01 prior to submitting a new application for credentialing.**
- CR14003R / Approve as Certified Residential Real Property Appraiser.**
- CG14006R / Hold**
- L14001 / Accept withdrawal of application.**

- CR14006 / Send redacted Standard 3 review to applicant, request written response to Standard 3 review within ten days of receipt of notice, and invite to advisory meeting. Board Member Barkley assigned.**
- CG14011 / Hold; upon receipt of Standard 3 review reports, send redacted Standard 3 reports to applicant, request written response to Standard 3 review within ten days of receipt of notice, and invite to advisory meeting. Board Member Kubert assigned.**
- CG14008 / Hold**
- CG14010 / Request applicant to complete ASFMRA Course 304, successfully pass examination, and submit first agricultural appraisal completed after course.**
- CG14014 / Send redacted Standard 3 review to applicant, request written response To Standard 3 review within ten days of receipt of notice, and invite to advisory meeting. Board Member Kubert assigned.**
- CR14010 / Send three appraisal reports for Standard 3 review.**
- CG14015 / Send appraisal reports for Standard 3 review.**

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

Board Member Woodle moved to take the following action for the credentialing applicant as listed:

- CG14001 / Invite to advisory meeting. Board Member Kubert assigned.**

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:

Board Member Kubert moved to take the following action for the AMC applicant as listed:

- NE2014004 / Approve**

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

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Kubert moved to take the following enforcement actions:

- 12-11 / Hold**
- 13-06 / Send letter informing Respondent of Consent Agreement terms default.**
- 13-09 / Send letter informing Respondent of Consent Agreement terms default.**
- 13-14 / Send inquiry letter.**
- 13-15 / Send inquiry letter.**
- 14-29 / Hold; Investigating Board Member review appraisal report and workfile, and at its discretion, send appraisal report and workfile for Standard 3 review. Board Member Barkley appointed as Investigating Board Member.**

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

Vice Chair Kubert moved to take the following enforcement actions:

13-10 / Send letter informing Respondent of Consent Agreement terms default.

13-13 / Hold

13-23 / Hold

13-24 / Hold

13-25 / Hold

13-26 / Hold

14-15 / Send Respondent redacted copy of Standard 3 review, request written response to Standard 3 review within ten days of receipt of notice, and invite to informal meeting.

14-16 / Hold

14-17 / Hold

14-18 / Hold

14-19 / Hold

14-20 / Hold

Board Member Saxton seconded the motion. Motion carried with Woodle, Saxton and Kubert 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 / Hold

13-27 / Closed

14-22 / Hold

14-23 / Hold

14-24 / Hold

14-25 / Hold

14-26 / Hold

14-27 / Hold

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

Vice Chair Kubert moved to take the following enforcement actions:

13-21 / Hold

14-11 / Hold

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

Vice Chair Kubert moved to take the following enforcement actions:

14-28 / Hold

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS:

The Board discussed inquiry I14-12.

The Board discussed a plea agreement that the majority owner of a Nebraska registered appraisal management company entered into for aiding, assisting, procuring, counseling, and advising of the preparation and presentation of false income tax returns to the IRS. The appraisal management company reported the plea agreement. No action was taken.

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

Personnel matters were discussed.

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

I13-4 / Hold

I14-9 / Hold

I14-12 / Close; rescind existing cease and desist, and send advisory letter informing individual to follow Nebraska law and to contact the Board with any questions concerning valuation services that may be under the Board's jurisdiction.

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

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

Item 2 / Approve request to allow release of appraisal reports associated with review reports previously approved for release as presented.

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

With regards to review of applicant L14001, which the Supervisory Appraiser may have failed to exercise reasonable diligence in preparation of the appraisal report, and may have also been negligent in the communication of the appraisal report, Board Member Kubert moved open Inquiries I14-14, I14-15, and I14-16 for the potential violation of Neb. Rev. Stat. § 76-2237 and 76-2238 (13) and (14). The motion was seconded by Woodle, and carried with Saxton, Woodle, Kubert and Barkley voting aye.

R. ADJOURNMENT

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

At 3:09 p.m. Chairman Barkley adjourned the June 19, 2014 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on June 2, 2014, in compliance with Nebraska Statute §84-1413 (5).