

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

October 15, 2014 Meeting Minutes

A. OPENING

Chairman Philip Barkley called to order the October 15, 2014 meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., in conference room "B" 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 October 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, and Chris Langemeier were present. Also present were Director, Tyler Kohtz, and Compliance and Education Specialist, Anthony Dreesen. Board Member, Marc Woodle, and Business and Licensing Specialist, Natasha Olsen, were both absent and excused.

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 Saxton, Langemeier, Kubert, and Barkley voting aye.

The Nebraska Real Property Appraiser Board will meet in executive session for review 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 9:03 a.m. Board Member Langemeier seconded the motion. The motion carried with Kubert, Langemeier, Saxton and Barkley voting aye.

Break from 10:00 a.m. to 10:10 a.m.

Break from 11:08 a.m. to 11:14 a.m.

Board Member Kubert moved to come out of executive session at 11:58 p.m. Board Member Langemeier seconded the motion. The motion carried with Langemeier, Saxton, Kubert and Barkley voting aye.

G. WELCOME AND CHAIR'S REMARKS

Chairman Barkley welcomed the general public, board members and staff. Public members in attendance were Diane Moore, John Connelley, and John Massanet.

H. BOARD MEETING MINUTES

1. APPROVAL OF SEPTEMBER 18, 2014 MEETING MINUTES

Chairman Barkley asked for any additions or corrections to the September 18, 2014 minutes. Member Kubert indicated that inquiries I14-29, I14-30, and I14-31, along with the actions for those inquiries, were missing from the motion under Section F on Page 9. Board Member Kubert continued by saying the action for each motion is "Open; send copy of redacted review and request response." Director Kohtz informed the Board that these corrections will be made. Board Member Kubert moved to adopt the September 18, 2014 meeting minutes as amended. Board Member Langemeier seconded the motion. The motion carried with Saxton, Langemeier, Kubert and Barkley voting aye.

2. AMENDMENT OF AUGUST 21, 2014 MEETING MINUTES

Director Kohtz brought attention to an error in the August 21, 2014 minutes. The action for Applicant CG14014 should be "Approved as Certified General Real Property Appraiser" under Section C on Page 8. Board Member Kubert moved to amend the August 21, 2014 meeting minutes as presented. Board Member Saxton seconded the motion. The motion carried with Saxton, Kubert, Langemeier and Barkley voting aye.

I. DIRECTOR'S REPORT

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of October 15, 2014. The Director summarized each chart and reported the number of appraisers as follows: 79 total Licensed, 74 resident and 5 reciprocal; 226 total Certified Residential, 180 resident and 46 reciprocal; 399 total Certified General, 254 resident and 145 reciprocal; and 5 Registered for a total of 709 appraisers. The total number of appraisers is up 6 from September 2014, and up 17 from October 2013. Errors in the charts were noted by the Director. The Director also informed the Board that there are 53 Trainees, which is up 2 from September, and up 43 from October 2013.

In addition, the Director addressed the number of temporary permits issued. There were 17 permits issued in September compared to 13 permits issued in August. As of September 30, 2014, 97 temporary permits have been issued for the calendar year. September was the third straight month with ten or more temporary permits issued. The Director indicated that the trend regarding the number of temporary permits issued may be reversing back to the trend of the previous two years. Director Kohtz did not discuss the chart titled "Calendar Year Temporary Permit Totals" due to errors discovered during his preliminary review. Finally, Director Kohtz reported 110 AMCs registered, and no new AMC applications have been submitted since the last meeting.

J. FINANCIAL REPORT AND CONSIDERATIONS– OCTOBER 2014

1. APPROVAL OF SEPTEMBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for September were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some specific September expenses. Director Kohtz made special note of the \$7,745.00 in expenditures for Legal Services, and the \$6,930.00 in expenditures for Other Contractual Services. The Director continued by saying that Legal Services is at 41.05 percent of budget, and Other Contractual Services is at 47.28 percent of budget for the fiscal year; 25.21 percent of the fiscal year has passed. Director Kohtz indicated that the majority of expenditures were related to matters currently being wrapped up, but special attention will be paid to these expenditure accounts during the next few months. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$38,230.70 in expenditures and \$31,201.58 in revenues were reported. As of the end of September, expenses amount to 25.14 percent of the budgeted expenditures for the fiscal year; 25.21 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 September 2014 budget reports for audit. Board Member Saxton seconded the motion. The motion carried with Kubert, Langemeier, Saxton and Barkley voting aye.

2. NRPAB DATABASE UPDATE ESTIMATES

Director Kohtz informed the Board that CIO did not have the estimates prepared as expected; no discussion.

K. GENERAL PUBLIC COMMENTS

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

L. EDUCATION

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

New Qualifying Education Activities and Instructors

1. Appraisal Institute
 - a. Residential Market Analysis and Highest & Best Use (QE21440)/15 Hours
 1. Jim Atwood

New Continuing Education Activities and Instructors

1. Appraisal Institute
 - a. Unraveling the Mystery of Fannie Mae Appraisal Guideline – Synchronous (C21441-I)/4 Hours
 1. John Underwood

Continuing Education Renewal Activities and Instructors

1. McKissock, LP
 - a. Risky Business: Ways to minimize your liability (C2918-I)/5 Hours
 1. Alan Simmons

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

M. UNFINISHED BUSINESS

- 1. OPEN 3RD CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION:** Director Kohtz informed the Board that it is very likely that the new board member will be appointed by the next Governor. The Director then requested comments from the Board to provide to the Governor's office concerning the appointment. The Board agreed that outgoing Board Member Barkley's residential appraisal experience is very important, and it would be beneficial that Mr. Barkley's replacement have a similar residential background. Director Kohtz informed the Board that he will provide this information to Kathleen Dolezal with the Governor's office for consideration.
- 2. COUNTY APPRAISER CONTRACT UPDATE:** No update.
- 3. NRPAB STANDARD 3 REVIEW FORM UPDATE:** Director Kohtz informed the Board that he has scheduled a meeting with Cay Lacey next week to discuss the Board's Standard 3 Review Form. The Director indicated that the full staff will be in attendance, and if any board member was interested in attending, then please let him know. There was no further discussion.

N. NEW BUSINESS

- 1. APPRAISER PROSPERITY COALITION:** Director Kohtz presented a request for comments from the Appraiser Prosperity Coalition concerning the organization's position on appraiser related topics. Chairman Barkley indicated that it appears the organization is attempting to fight AMC regulations at the federal level and has hired a lobby firm to assist. Director Kohtz added that based on the information on Page N.6, the organization's goals are misguided; the issues the organization outlines are primarily state legislative issues, but the organization is requesting feedback from the states to address the issues at the federal level. Director Kohtz recommended that the Board provide no response to the organization.

Break from 1:18 p.m. to 1:28 p.m.

- 2. BOARD MEMBER PORTAL:** Director Kohtz and Compliance and Education Specialist Dreesen gave a short demo on the Board Member Portal. Director Kohtz then explained the preliminary plan for implementation. In summary, the portal board meeting files will be broken down by year and month, and the investigation files will be broken down by year, investigations or inquiries, and individual investigations or inquiries. Documents in the board meeting files will look the same as they do now, and documents in the investigation and inquiry files will start with the month in which the document is introduced, and also contain a description of the document in the name. Chairman Barkley asked how the files will be named. Director Kohtz responded that the investigation or inquiry number and the Respondent's name will be included in the file names. Board Member Kubert asked if applicants will have a separate folder. Director Kohtz indicated that a separate folder for applicants can be established and set up similar to investigations. The Board agreed that this is a good idea. Director Kohtz indicated that staff intends to make note in the investigation, inquiry, or applicant log of any documentation that has come in since the last meeting, but assigning page numbers is still a problem for staff. Director Kohtz asked if there are any comments concerning page numbering. Board Member Kubert indicated that it is important that he still has the complete investigative or inquiry section with page numbers added. Director Kohtz asked if the Board had any concerns with adding page numbers to the complete investigation, inquiry, and applicant sections only. No board member saw an issue with this. Director Kohtz informed the Board that he believes that he has enough feedback to begin implementing the Board Member Portal in November.

3. **BOARD MEMBER DATABASE ACCESS:** Director Kohtz and Compliance and Education Specialist Dreesen gave a demo presentation to the Board on use of the NRPAB Database, and answered any questions that board members had related to the access and use of the database.
4. **REAL ESTATE COMMISSION CONTINUING EDUCATION SUBMISSION CHANGES:** Director Kohtz brought attention to changes in the Real Estate Commission's continuing education submission requirements. Licensees who complete continuing education will now have the results submitted to the Real Estate Commission by the education provider. Chairman Barkley asked if this would be a possibility for the Board in the future. Director Kohtz responded that he is unsure at this point. The Director went on to say that he doesn't know how the Real Estate Commission's system is set up to ensure that credit is properly awarded to each licensee, and he doesn't want to over complicate the processes. Director Kohtz referenced out of state education providers as an example, and asked how the Real Estate Commission's system handles courses by these providers. Board Member Barkley pointed out that the memo indicates that licensees must submit certificates for out of state continuing education. Director Kohtz admitted that he missed that statement. The Director informed the Board that the next quote form CIO for the Database will include an upload area in Appraiser Login for continuing education certificates. Chairman Barkley asked if it was possible to contact the Real Estate Commission to learn more about its system. Director Kohtz indicated that he can do that. Director Kohtz will provide a report back to the Board concerning how the Real Estate Commission's system works, and if it is a possibility for the NRPAB to implement a similar system.
5. **SEPTEMBER APPRAISAL SUBCOMMITTEE VISIT:** ASC Policy Manager, Neal Fenochietti, visited the NRPAB staff on September 15, 2014 to provide information on the Appraisal Subcommittee, The Appraisal Foundation, and the two entities relationship with state appraiser regulatory agencies. Mr. Fenochietti also wanted to make himself available for any questions that staff may have due to the turnover during the past year. Compliance and Education Specialist Dreesen provided a summary of what was discussed to the Board. He brought attention to one point made by Mr. Fenochietti, and indicated that a trainee real property appraiser should maintain a separate experience log for each supervisory appraiser. Director Kohtz followed up by saying that this does match the language found in the 2015 Criteria. Board Member Kubert asked if a Board Policy should be drafted. Director Kohtz responded that he will draft a Board Policy for review at the November meeting.

O. LEGISLATIVE REPORT AND BUSINESS

1. **LR499:** Director Kohtz presented the drafted changes to the Real Property Appraiser Act to the Board for review in REQ00013. The Director went through the bill draft from top to bottom and noted specific requests made by Chairman Barkley and Board Member Kubert. Board Member Saxton requested clarification on many items and made some additional recommendations. Board Member Langemeier requested that the definition of "State" be changed to "Jurisdiction" to avoid any future confusion with federal changes. Director Kohtz informed the Board that all requested changes will be completed. Board Member Langemeier made a motion to send REQ00013 back to bill drafting as amended. The motion was seconded by Kubert, and carried with Kubert, Langemeier, Saxton and Barkley.
2. **TITLE 298:** Director Kohtz informed the Board that the redevelopment of only one chapter remains, and that he anticipates the Board's first review at the November meeting.

P. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. Current Board Policies:** Board Member Kubert asked that Board Policy 02-02 be retired due to the information of this policy being a requirement in the Real Property Appraiser Act and Title 298. There was no opposition. Board Member Kubert made a motion to retire Board Policy 02-02. The motion was seconded by Langemeier, and carried with Saxton, Langemeier, Kubert and Barkley voting aye.
 - b. New Board Policies:** At the September 18, 2014 regular meeting, the Board had a discussion regarding report writing courses taken in other jurisdictions. The Board agreed that a Board Policy needs to be drafted to provide guidance for this issue. The Board reviewed drafted Board Policy 14-05 concerning acceptability of a 7-hour report writing course completed in another jurisdiction. With no further discussion, Board Member Kubert made a motion to approve Board Policy 14-05 as presented. The motion was seconded by Langemeier, and carried with Saxton, Kubert, Langemeier and Barkley voting aye.
- 2. BOARD MEMBER RECORDS RETENTION:** Prior to the meeting, Board Member Barkley asked Director Kohtz for clarification on how board materials should be disposed of by outgoing board members. Director Kohtz presented an email response from AAG Hart concerning disposal of board materials in board member possession. Director Kohtz continued by saying that the materials could be looked at in two ways; first would be for the Board to consider the materials official and incorporate it into the Board's Records Retention Policy; second would be for the Board to consider the materials non-record and have no advisement on disposal. The Board agreed that the materials are non-record; there was no further discussion.

Q. OTHER BUSINESS

1. BOARD MEETINGS – No discussion.

- 2. CONFERENCES/EDUCATION:** Chairman Barkley noted that Board Members Kubert and Woodle, along with Director Kohtz, will be attending AARO this weekend.

3. MEMOS FROM THE BOARD

- a. 2015 Renewal Reminder and Background Check Information:** Director Kohtz presented a Memo From the Board concerning the January 1, 2015 renewals and background check information. A discussion took place regarding the memo. Board Member Kubert asked that “prior to renewal and during a regularly scheduled meeting” be added after “review” in bullet point number 3. Board Member Kubert also requested that bullet point 3 be separated into two separate points between the newly added “meeting” and the next sentence that begins with “If.” Director Kohtz indicated that these changes will be made. Board Member Kubert made a motion to approve the 2015 Renewal Reminder and Background Check Information Memo From the Board as amended. The motion was seconded by Langemeier, and carried with Kubert, Saxton, Langemeier and Barkley voting aye.
- b. Request for Comments to Proposed Changes to the Real Property Appraiser Act:** Director Kohtz requested approval to send a Memo From the Board requesting comments from credentialed appraisers on the proposed changes to the Real Property Appraiser Act once REQ00013 is updated. Board Member Langemeier made a motion to approve a Memo From the Board requesting comments from credentialed appraisers concerning the proposed changes to the Real Property Appraiser Act. The motion was seconded by Kubert, and carried with Saxton, Langemeier, Kubert and Barkley voting aye.

4. APPRAISAL FOUNDATION

- a. First Exposure Draft of a Proposed New Advisory Opinion and Advisory Opinion Revisions in Conjunction with the 2016-17 Edition of USPAP:** Director Kohtz presented the “First Exposure Draft of a Proposed New Advisory Opinion and Advisory Opinion Revisions in Conjunction with the 2016-17 Edition of USPAP” concerning the retirement of the Statements from USPAP to the Board for review. No further discussion took place.

- b. Third Exposure Draft of Proposed Changes for the 2016-17 Edition of the Uniform Standards of Professional Appraisal Practice:** Director Kohtz presented the “Third Exposure Draft of Proposed Changes for the 2016-17 Edition of the Uniform Standards of Professional Appraisal Practice” concerning changes to the 2016-17 edition of USPAP. Director Kohtz indicated that there was nothing that stood out to him as concerning. There may be some definition changes that the Board needs to make in its 2016 general update to the Real Property Appraiser Act. Board Member Saxton asked if the Board ever submits comments to the exposure drafts. Director Kohtz indicated that he has not on the Board’s behalf, but would be happy to submit any comments the Board sees fit. Director Kohtz also informed the Board that he plans to attend the public hearing for these proposed changes while in Washington, D.C., and is interested in what others may have to say.

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 2:29 p.m. Board Member Langemeier seconded the motion. The motion carried with Saxton, Langemeier, Kubert and Barkley voting aye.

Board Member Kubert moved to come out of executive session at 2:32 p.m. Board Member Saxton seconded the motion. The motion carried with Langemeier, Saxton, Kubert and Barkley voting aye.

C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER:

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

T2104025 / Approve additional Supervisory Appraiser.

T2013005 / Approve additional Supervisory Appraiser.

T14025 / Approve as Trainee Real Property Appraiser.

CR14019 / Approve to sit for exam; select four reports for review. Board Member Kubert assigned and appointed to act on behalf of the Board to select three reports to send for review.

CR14020 / Approve to sit for exam; select and send three reports for review. Board Member Saxton assigned.

CR14015R / Deny

CG14037 / Hold

CG14034R / Approve as Certified General Real Property Appraiser.

CG14029R / Approve as Certified General Real Property Appraiser.

CG14035R / Approve as Certified General Real Property Appraiser.

CG14036R / Approve as Certified General Real Property Appraiser.

CG14001 / Hold

CR14006 / Hold

CG14011 / Hold

CG14021 / Hold

CG14010 / Hold

CR14010 / Send applicant redacted copies of Standard 3 reviews and request written response to each review; invite to advisory meeting.

CG14015 / Hold

CR14013 / Hold

CR14018 / Request applicant to submit a new 2-4 unit residential property report completed after October 15, 2014. Send for review once received.

CR14016 / Hold

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

NE2014006 / Approve

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

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Kubert moved to take the following enforcement actions:

13-14 / Hold

13-15 / Hold

14-31 / Send Respondent redacted copy of reviews, offer Consent Agreement for Respondent to voluntarily surrender credential within 10 days of receipt of Consent Agreement. If credential is not received within 10 days, authorize Special Assistant Attorney General Blake to file formal charges for violation of Neb. Rev. Stat. § 76-2238 (20).

14-34 / Request true copy of appraisal report and workfile, and a written response to the Grievance. Board Member Barkley appointed as Investigating Board Member.

14-35 / Request true copy of appraisal report and workfile; send for review once received. Request written response to the Grievance from Respondent.

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

Vice Chair Kubert moved to take the following enforcement actions:

13-13 / Close

13-23 / Hold

13-24 / Hold

13-25 / Hold

13-26 / Extend Consent Agreement deadline for exam to November 15, 2014.

14-15 / Hold

14-16 / Hold

14-17 / Hold

14-18 / Hold

14-19 / Hold

14-20 / Hold

14-29 / Send copy of redacted Standard 3 review, request a written response to Standard 3 review, and invite to informal meeting.

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

Board Member Langemeier moved to take the following enforcement actions:

13-18 / Hold

13-19 / Hold

14-22 / Consent Agreement signed by Board Chair. Notify Trainee Real Property Appraisers of Respondent's Supervisory Appraiser status.

14-23 / Consent Agreement signed by Board Chair. Notify Trainee Real Property Appraisers of Respondent's Supervisory Appraiser status.

14-24 / Consent Agreement signed by Board Chair. Notify Trainee Real Property Appraisers of Respondent's Supervisory Appraiser status.

14-25 / Dismiss without prejudice; send advisory letter.

14-26 / Consent Agreement signed by Board Chair. Notify Trainee Real Property Appraisers of Respondent's Supervisory Appraiser status.

14-27 / Consent Agreement signed by Board Chair. Notify Trainee Real Property Appraisers of Respondent's Supervisory Appraiser status.

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

Vice Chair Kubert moved to take the following enforcement actions:

13-21 / Hold

14-32 / Hold

14-33 / Hold

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS:

Inquiry I13-4 was discussed.

Inquiries I14-14, I14-15, and I14-16 were discussed.

Inquiry I14-22 was discussed.

The Board discussed the two appraisal reports held on the agenda from the September meeting. The Board assigned inquiry numbers I14-32 and I14-33 to these matters.

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

I13-4 / Hold

I14-9 / Hold

I14-14 / Close

I14-15 / Close

I14-16 / Close

I14-22 / Send follow up letter.

I14-32 / Open

I14-33 / Open

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

R. ADJOURNMENT

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

At 2:33 p.m. Chairman Barkley adjourned the October 15, 2014 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on October 29, 2014, in compliance with Nebraska Statute §84-1413 (5).