

**NEBRASKA REAL PROPERTY APPRAISER BOARD  
NRPAB OFFICE MEETING ROOM, FIRST FLOOR  
NEBRASKA STATE OFFICE BUILDING  
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

**February 18, 2016 Meeting Minutes**

*Swearing in of new Board Member Benjamin Hynek took place prior to the start of the meeting.*

**A. OPENING**

Chairman Marc Woodle called to order the February 18, 2016 meeting of the Nebraska Real Property Appraiser Board at 9:02 a.m., in the Nebraska Real Property Appraiser Board meeting room located on the first floor of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

**B. NOTICE OF MEETING**

Chairman Woodle 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 February 15, 2016 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 Marc Woodle, Christopher Langemeier, Sandra Gutwein, and Benjamin Hynek were present. Also present were Director, Tyler Kohtz, and Compliance and Education Specialist, Grant Krieger.

**ADOPTION OF THE AGENDA**

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

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

Board Member Langemeier 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 9:05 a.m. Board Member Gutwein seconded the motion. The motion carried with Langemeier, Hynek, Gutwein, and Woodle voting aye.

Break from 10:13 a.m. to 10:49 a.m.

Robert L. Nefsky appeared before the Board at 10:50 a.m.

Board Member Langemeier moved to come out of executive session at 11:06 a.m. Board Member Gutwein seconded the motion. The motion carried with Langemeier, Hynek, Gutwein, and Woodle voting aye.

Lunch served to board members and staff at 11:15 a.m.

#### **G. WELCOME AND CHAIR'S REMARKS**

Chairman Woodle welcomed all. Diane Moore, Larry Saxton, Peter Spirk, and John Farris were the members of the Public in attendance.

#### **H. BOARD MEETING MINUTES**

##### **1. APPROVAL OF JANUARY 21, 2016 MEETING MINUTES**

Chairman Woodle asked for any additions or corrections to the January 21, 2016 minutes. With no further discussion, the Chairman called for a vote. Board Member Langemeier moved to adopt the January 21, 2016 meeting minutes as presented. Board Member Gutwein seconded the motion. The motion carried with Hynek, Gutwein, Langemeier, and Woodle voting aye.

#### **I. DIRECTOR'S REPORT**

Director Kohtz presented twelve charts outlining the number of appraisers and AMCs as of February 18, 2016. The Director summarized each chart and reported the number of appraisers as follows: 62 total Licensed, 58 credentialed through education, experience, and examination, and 4 through reciprocity; 217 total Certified Residential, 180 credentialed through education, experience, and examination, and 37 through reciprocity; 380 total Certified General, 242 through education, experience, and examination, and 138 through reciprocity. In addition, there are 0 Registered and 60 Trainees currently credentialed.

As of February 18, 2016, a total of 659 appraisers, not including the Trainee classification, were reported by the Director, up 11 from January, and up 3 from February 2015. A total of 719 appraisers, including the Trainee classification, were also reported by the Director, up 13 from January, and up 9 from February 2015. A total of 480 appraisers credentialed through education, experience, and examination, not including the Trainee classification, was reported, which is down 3 from February 2015, and a total of 179 appraisers credentialed through reciprocity was reported, which is up 6 from February 2015.

In addition, the Director addressed the number of temporary permits issued. There were 17 permits issued in January compared to 18 permits issued in December of 2015. As of January 31, 2016, 17 temporary permits have been issued for the calendar year. Finally, the Director reported 103 AMCs registered, which is down 10 from February 2015.

The Director ended his report by thanking Compliance and Education Specialist Krieger for his hard work during the past couple months while staffing was unstable.

## **J. FINANCIAL REPORT AND CONSIDERATIONS – FEBRUARY 2016**

### **1. APPROVAL OF JANUARY RECEIPTS AND EXPENDITURES**

The receipts and expenditures for January were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some January expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$29,044.82 in expenditures and \$54,586.60 in revenues were reported. As of the end of January, expenses amount to 44.01 percent of the budgeted expenditures for the fiscal year; 58.90 percent of the fiscal year has passed. Director Kohtz finished by presenting three charts outlining the Agency twenty-five month expenses and revenues, historic cash balance, and twenty-five month cash balance.

Board Member Langemeier moved to accept and file the January 2016 budget reports for audit. Board Member Hynek seconded the motion. The motion carried with Langemeier, Woodle, Hynek, and Gutwein voting aye.

### **2. 2016 AARO MEMBERSHIP DUES**

Director Kohtz presented the invoice for the 2016 AARO dues, and asked if the Board would like to renew its AARO membership. Board Member Langemeier made the motion to renew the Board's AARO membership for 2016 and pay the required dues. The motion was seconded by Gutwein, and carried with Woodle, Langemeier, Gutwein, and Hynek voting aye.

### **3. BAYLOR EVNEN FEE INCREASE REQUEST**

Director Kohtz presented a request from William G. Blake, the Board's Special Assistant Attorney General, to increase the rate for providing legal services to the Board from \$150.00 per hour to \$200.00 per hour for Mr. Blake, and from \$120.00 per hour to \$200.00 per hour for Jarrod Crouse. Board Member Gutwein moved to increase the hourly rate to \$200.00 per hour for Mr. Blake and Mr. Crouse. The motion was seconded by Hynek, and carried with Langemeier, Gutwein, Hynek, and Woodle voting aye.

### **4. PER DIEMS**

Director Kohtz informed the Board that he has no per diem requests for this meeting. Chairman Woodle asked if any board members had a request for the Board to consider. There was no further discussion.

## **K. GENERAL PUBLIC COMMENTS**

Chairman Woodle asked for any public comments. Larry Saxton appeared before the Board and indicated that he should have come last month to say good bye to everyone. Mr. Saxton informed the Board that he wanted to reiterate a point he has made concerning disciplinary matters, but will do so in a way that it does not compromise confidentiality. Saxton continued, "It is good to have a second set of eyes on each property. Marc handed out notes with his points regarding interest in the case is a good example as to why. Does it mean it will make a difference? No, but a second set of eyes minimizes mistakes. Many offices have a second set of eyes to look at a property. It could work by having a second reviewer on the panel, only one review is completed, but both look at the report. The second set of eyes is to limit risk. The two on the panel could also be interchangeable to increase oversight. If interested this could be tried in the application process, it is your call. The second point that I would like to make, Iowa Board gets a log immediately to establish similarities. They ask for two or three reports off the log. Iowa does not move a complaint forward with a single report source for the complaint." Mr. Saxton finished by informing the Board that twelve days after he resigned from the Board, he was laid off. Mr. Saxton is currently back in the fee business. Chairman Woodle stated, "Out of respect of the Board, your comments are duly noted." Board Member Langemeier thanked Mr. Saxton for his appearance.

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Peter Spirk and John Farris appeared before the Board. Mr. Spirk informed the Board that he was working towards his certified general credential, and wanted to come see a meeting. Mr. Farris stated that he was Mr. Spirk's manager. Chairman Woodle welcomed Mr. Spirk and Mr. Farris.

## **L. EDUCATION**

Board Member Langemeier moved to approve the following education activities and instructors as listed:

### **NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS**

#### **The Moore Group**

Nebraska Supervisory Appraiser and Trainee Appraiser Training v. 2016-2017 (ST21639)/7 Hours – Bradford Moore, Diane Moore \*\*7-Hour Supervisory Appraiser/Trainee Course\*\*

Residential Appraisal Review & USPAP Compliance (C21605)/7 Hours – Bradford Moore, Diane Moore

### **RENEWAL OF CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS**

#### **McKissock, LP**

Introduction to the Uniform Appraisal Dataset (C21109-I)/2 Hours – Dan Bradley

Seconded by Gutwein. Chairman Woodle called for the vote. The motion carried with Hynek, Langemeier, Woodle, and Gutwein voting aye.

### **OTHER ACTIVITES**

Jeffrey Wickham, a certified residential real property appraiser residing in California, made a request to the Board for consideration of two courses as meeting the requirements for the seven hour report writing update course for his continuing education program. The Board agreed that the second course meets the Board's expectations and would be accepted as meeting the seven hour report writing update course requirement if submitted for that purpose.

## **M. UNFINISHED BUSINESS**

### **1. OPEN AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS POSITION:**

Director Kohtz informed the Board that advertising for the open at-large representative of financial institutions position has begun. A Memo From the Board was sent out, a Facebook post was made on the Board's page, and various financial related entities were notified and provided a copy of the Memo From the Board.

## **N. NEW BUSINESS**

**1. BOARD MEMBER RECOGNITION:** Director Kohtz informed the Board that he and Chairman Woodle had a conversation about the recognition of past board members, and Chairman Woodle asked to place this item on the agenda for discussion. Chairman Woodle indicated that it would be a good idea to recognize former board members in the office since the space is available; a name plaque might be the way to do this. Director Kohtz added that he has been thinking about this for quite some time, but it just hasn't been brought up in discussion. The Director continued by saying that the Board used to hang pictures of each board member, but with the term limits, this is not reasonable. He has thought about framing a picture of each Board, but that would result in the same problem, so the name recognition plaque would be a great idea. The Board agreed that Director Kohtz should put an idea together for the Board to consider. Director Kohtz informed the Board that he will start discussions with Cornhusker Industries.

2. **MOORE GROUP REPORT ON USPAP USAGE IN THE CLASSROOM:** Director Kohtz presented an email from Diane Moore with The Moore Group providing a statistical breakdown of each USPAP form utilized during the first class in 2016. The Director informed the Board that 65% utilized the electronic version, or a printed copy from an electronic version. Chairman Woodle indicated that this is good news considering the change the Board made from providing the paper copy to the electronic copy. Director Kohtz indicated that the office only received one negative comment during renewals, and that all other feedback has been positive. Diane Moore, who was attendance, added that only one electronic version did not work during the course, and that individual was given a loaner copy for the class.
3. **APPRAISAL MANAGEMENT COMPANY CUSTOMARY AND REASONABLE FEES:** Director Kohtz brought attention to an article titled “AMC Fined Over C&R Fees,” and indicated that Chairman Woodle asked this to be placed on the agenda for discussion. Chairman Woodle informed the Board that this article provides a good reason to once again start the discussion on having a fee study completed. There is now a formal action against an AMC for not paying customary and reasonable fees. Board Member Hynek asked, “Would a questionnaire just go to appraisers?” Director Kohtz responded, “A university would conduct the research and prepare the report. However, federal guidelines require that such of a study only includes fees paid by non-AMCs.” Chairman Woodle added, “This would establish what is considered to be customary and reasonable in Nebraska, and ensure that appraisers are not forced to accept an assignment for \$200.00. Board Member Hynek responded, “Some are fine with \$200.00. Sometimes we lower our costs to avoid AMCs. I’m not sure what the data proves.” Chairman Woodle asked Director Kohtz where the Board should start if it were to have a fees study completed. Director Kohtz informed the Board that he would have to look into procurement requirements before any other steps are taken, and that he could report back to the Board next month. The Board agreed that the process should begin. Board Member Hynek moved to begin the study of customary and reasonable fees. The motion was seconded by Gutwein, and carried with Gutwein, Hynek, Langemeier, and Woodle voting aye.

#### **O. LEGISLATIVE REPORT AND BUSINESS**

1. **LEGISLATIVE UPDATE:** Director Kohtz provided an update to the Board regarding legislation carried over from the previous session and introduced during the current session that the Board may have interest in. The following bills were addressed:
  - LB606** – No update.
  - LB646** – No update.
  - LB699** – This bill has been placed on final reading with amendment AM1861 clarifying the membership requirements.
  - LB717** – A hearing before the Revenue Committee took place on February 4, 2016; no further information is available.
  - LB729** – Director Kohtz began by apologizing for switching LB729 and LB731 around in his email sent last week. LB729 appeared on the Legislature’s Consent agenda on February 11, 2016, and has advanced to enrollment and review.

**LB731** – There has been no change on this bill. Director Kohtz informed the Board that Senator Johnson is expecting this bill to be named a Speaker’s Priority Bill.

**LB825** – No update.

**LB830** – This bill was placed on General File with AM2082 on February 17, 2016. AM2082 requires that the vacation payout must only be in the amount for the leave requested by the state employee and denied by the employing agency.

**LB867** – A hearing before the Government, Military and Veterans Affairs Committee took place on February 4, 2016; no further information is available.

**LB876** – No update

**LB993** – This bill changes provisions related to the Auditor of Public Accounts and requires that hours of work be recorded by agency heads. Director Kohtz informed the Board that there is probably a logical reason behind this bill, but it has no effect on the Board because the Director already completes a timesheet that is signed by the Chairman for auditing purposes. A hearing before the Government, Military and Veterans Affairs Committee took place on February 5, 2016.

**LB1024** – This bill changes the maximum amount relating to contracts between public officials and employees and government bodies according to a set standard for inflation.

**LB1084** – This bill prohibits state agencies from amending an existing contract to extend the contract for a period of more than 50% of the initial contract term, and limit the number of extensions to one.

**LB1092** – This bill establishes certain requirements for mid-biennium budget requests that codifies general practices already exercised. In addition, an agency must identify for each program, if that program is evidence-based.

**LB1099** – This bill changes state expense reimbursement requirements from detailing actual expenses occurred to a set GSA rate.

- 2. TITLE 298 HEARING TESTIMONY AND WRITTEN COMMENTS ANALYSIS:** Director Kohtz presented the draft analysis of the January 21, 2016 hearing testimony and written comments received by the Board to the Board for consideration. The Board agreed with the analysis. Board Member Langemeier moved to adopt Title 298 as presented in the November 16, 2015 draft at the January 21, 2016 hearing before the Board. The motion was seconded by Hynek, and carried with Gutwein, Hynek, Langemeier, and Woodle voting aye.

## **P. BOARD POLICIES AND PROCEDURES**

### **1. BOARD POLICIES**

- a. Current Board Policies:** No discussion.

## **Q. OTHER BUSINESS**

**1. BOARD MEETINGS:** No discussion.

### **2. CONFERENCES/EDUCATION**

**a. Kohtz UNL Career Fair Report:** Director Kohtz attended the UNL Career Fair on February 17, 2016 at Pinnacle Bank Arena in Lincoln. Director Kohtz informed the Board that attendance at the UNL Career Fair was another good experience. The Director indicated that in total, the Board had approximately fifteen visitors, and the interest in appraisal practice was stronger than it was at the fall conference. Director Kohtz finished by saying that bringing attention to this career while a person is still thinking about his or her path will allow time for a person to plan for the education and experience requirements in the future if that time comes.

**3. MEMOS FROM THE BOARD:** Director Kohtz informed the Board that the Memo From the Board announcing Board Member Hynek's appointment will be released this month.

**4. APPRAISAL SUBCOMMITTEE:** No discussion.

### **5. APPRAISAL FOUNDATION**

**a. The Appraiser Qualifications Board Discussion Draft – Potential Areas of Change to the Real Property Appraiser Qualification Criteria:** Director Kohtz presented The Appraiser Qualifications Board Discussion Draft pertaining to changes to the real property appraiser qualification criteria to the Board for review. The Director provided comments on the draft; specifically the development of an alternative credentialing track, which includes years of experience for upgrades and credit for experience in other professions; the criteria for the revised practicum course; and changing the trainee name.

**b. The Appraisal Standards Board February Q&A's:** The Appraisal Foundation's document titled "USPAP Q&A" issued on February 10, 2016 was presented to the Board for review. This document discussed report turnaround time as an assignment condition. According to USPAP, this is a contractual issue; the Board agreed with this assessment.

**c. Appraisal Practices Board First Exposure Draft – Valuation of Green and High Performance Property: 1 to 4 Unit Residential:** Director Kohtz presented The Appraisal Practices Board Exposure Draft titled, "Valuation of Green and High Performance Property: 1 to 4 Unit Residential" to the Board for review. There was no discussion.

### **6. IN THE NEWS**

**a. The Appraisal Buzz Article – Staying Out of Hot Water:** Director Kohtz presented the Appraisal Buzz article titled, "Staying Out of Hot Water" to the Board for review. The Director informed the Board that the topic of fraud is always interesting. There was no discussion.

**C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER:**

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

**CG16001R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**

**L15002 / Education and Experience accepted; approve to sit for exam, and authorize Director to issue credential upon successful completion of exam.**

**CR15009 / Send third report for Standard 3 review.**

**CG15015 / Send redacted copy of Standard 3 review and request written response within 10 days.**

**CG15025 / Education and Experience accepted; approve to sit for exam, and authorize Director to issue credential upon successful completion of exam.**

Board Member Gutwein seconded the motion. Motion carried with Gutwein, Hynek, Langemeier, and Woodle voting aye.

Board Member Langemeier moved to approve all renewal applications received at that Board's office postmarked between January 15, 2016 and February 12, 2016 with advisory letters. The motion was seconded by Hynek, and carried with Langemeier, Hynek, Woodle, and Gutwein voting aye.

**D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:**

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

**NE2016003 / Requirements for registration as an appraisal management company approved as submitted. Authorize Director to issue registration upon completion of background check.**

**NE2016004 / Requirements for registration as an appraisal management company approved as submitted. Authorize Director to issue registration upon completion of background check.**

**NE2016005 / Requirements for registration as an appraisal management company approved as submitted. Authorize Director to issue registration upon completion of background check.**

**Item 2 / Approve renewal of registration as an appraisal management company.**

Board Member Gutwein seconded the motion. Motion carried with Hynek, Langemeier, Gutwein, and Woodle voting aye.

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

**Item 1 / Approve request to update renewal date to January 19, 2016.**

Board Member Gutwein seconded the motion. Motion carried with Gutwein, Langemeier, and Woodle voting aye. Hynek abstained.



**E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:**

Board Member Langemeier moved to take the following enforcement actions:

**14-22 / Monitor Consent Agreement.**  
**14-23 / Monitor Consent Agreement.**  
**14-24 / Monitor Consent Agreement.**  
**14-26 / Monitor Consent Agreement.**  
**14-27 / Monitor Consent Agreement.**  
**15-03 / Ongoing**  
**15-05 / Hold**  
**15-09 / Hold**  
**15-10 / Dismiss without prejudice.**  
**15-14 / Ongoing**  
**15-15 / Ongoing**  
**15-16 / Ongoing**  
**15-18 / Ongoing**  
**15-19 / Ongoing**

Board Member Gutwein seconded the motion. Motion carried with Hynek, Gutwein, Woodle, and Langemeier voting aye.

Board Member Langemeier moved to take the following enforcement actions:

**14-32 / Hold**  
**14-33 / Hold**  
**14-35 / Ongoing**

Board Member Hynek seconded the motion. Motion carried with Langemeier, Hynek, and Gutwein voting aye. Woodle abstained.

Board Member Langemeier moved to take the following enforcement actions:

**15-22 / Ongoing**  
**15-23 / Ongoing**  
**15-24 / Ongoing**

Board Member Hynek seconded the motion. Motion carried with Langemeier, Hynek, and Woodle voting aye. Gutwein recused herself.

**F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS:**

I15-16, I15-17, and I15-18 were discussed.

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

**I14-32 / Hold**  
**I14-33 / Hold**  
**I15-16 / Close**  
**I15-17 / Close**  
**I15-18 / Close**

Board Member Hynek seconded the motion. Motion carried with Hynek, Woodle, Gutwein, and Langemeier voting aye.

**R. ADJOURNMENT**

Board Member Langemeier moved to adjourn the meeting. Board Member Gutwein seconded the motion. Motion carried with Langemeier, Hynek, Gutwein, and Woodle voting aye.

At 12:54 p.m. Chairman Woodle adjourned the February 18, 2016 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz  
Director

These minutes were available for public inspection on March 3, 2016, in compliance with Nebraska Revised Statute §84-1413 (5).