

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

**April 21, 2016 Meeting Minutes**

**A. OPENING**

Chairman Marc Woodle called to order the April 21, 2016 meeting of the Nebraska Real Property Appraiser Board at 9:05 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 April 18, 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, Compliance and Education Specialist, Grant Krieger, and Business and Licensing Specialist, John Brady.

**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 Hynek seconded the motion. With no further discussion, the motion carried with Hynek, Gutwein, 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 9:07 a.m. Board Member Gutwein seconded the motion. The motion carried with Hynek, Gutwein, Langemeier, and Woodle voting aye.

Break from 10:04 a.m. to 10:18 a.m.

Board Member Langemeier moved to come out of executive session at 10:57 a.m. Board Member Hynek seconded the motion. The motion carried with Hynek, Gutwein, Langemeier, and Woodle voting aye.

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

Chairman Woodle welcomed all and welcomed spring. Diane Moore was the only member of the public in attendance.

## **H. BOARD MEETING MINUTES**

### **1. APPROVAL OF MARCH 17, 2016 MEETING MINUTES**

Chairman Woodle asked for any additions or corrections to the March 17, 2016 minutes. With no further discussion, the Chairman called for a vote. Board Member Langemeier moved to adopt the March 17, 2016 meeting minutes as presented. Board Member Hynek 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 April 21, 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; 218 total Certified Residential, 179 credentialed through education, experience, and examination, and 39 through reciprocity; 381 total Certified General, 243 through education, experience, and examination, and 138 through reciprocity. In addition, there are 0 Registered and 60 Trainees currently credentialed.

As of April 21, 2016, a total of 661 appraisers, not including the Trainee classification, were reported by the Director, up 3 from March, and down 6 from April 2015. A total of 721 appraisers, including the Trainee classification, were also reported by the Director, up 2 from March, and down 2 from April 2015. A total of 480 appraisers credentialed through education, experience, and examination, not including the Trainee classification, was reported, which is down 7 from April 2015, and a total of 181 appraisers credentialed through reciprocity was reported, which is up 1 from April 2015.

The Director then addressed the number of temporary permits issued. There were 18 permits issued in March compared to 15 permits issued in February. As of March 31, 2016, 50 temporary permits have been issued for the calendar year. Finally, the Director reported 104 AMCs registered, which is down 3 from April 2015.

The Director ended his report by thanking Business and Licensing Specialist, John Brady, and Compliance and Education Specialist, Grant Krieger, for their hard work while he was out of the office.

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

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

The receipts and expenditures for March were reviewed by the Director by line item with the Board. Director Kohtz provided details related to some March expenses. The Director first brought attention to the health insurance expense, which includes an adjustment for a former employee's plan change that took place in November. The Board began deductions for the benefit changes on December 1, 2015, but the deductions should have begun at the time of benefit change. The Director then brought attention to the conference registration expense of \$1000.00, which includes CES Krieger and Board Member Langemeier's conference registration fees for the Spring AARO Conference; the dues and subscription expense of \$587.50, which includes both the Lincoln Journal Star subscription and the AARO Membership Dues; and the commercial transportation expense of \$303.46, which includes an AARO airline ticket.

*(Continued on page 3)*

*(Continued from page 2)*

Finally, Director Kohtz informed the Board that the miscellaneous adjustment of \$5,899.81 was applied by State Accounting to balance the Federal Registry Fee Account. State Accounting did not complete the original adjustment correctly last fiscal year, so it had to be reversed. Because of this, the Director had State Accounting include the amount for the two unpaid invoices mentioned in February to the total adjustment, and now the account is in balance.

For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$28,828.90 in expenditures and \$9,211.24 in revenues were reported. As of the end of March, expenses amount to 56.90 percent of the budgeted expenditures for the fiscal year; 75.34 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 March 2016 budget reports for audit. Board Member Hynek seconded the motion. The motion carried with Hynek, Gutwein, Langemeier, and Woodle voting aye.

## **2. PER DIEMS**

Director Kohtz requested a per diem payment in the amount of \$300.00 on behalf of Board Member Langemeier for representing the Board at the Spring AARO Conference between April 8, 2016 and April 10, 2016. Board Member Langemeier informed the Board that he does not wish to receive a per diem payment. No further discussion took place.

Board Member Langemeier 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. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. The time on the meeting clock was 11:14 a.m. Board Member Hynek seconded the motion. The motion carried with Hynek, Gutwein, Langemeier, and Woodle voting aye.

Toni Bright and Brent Beller appeared before the Board at 11:16 a.m.

Board Member Langemeier moved to come out of executive session at 11:34 a.m. Board Member Gutwein seconded the motion. The motion carried with Hynek, Gutwein, Langemeier, and Woodle voting aye.

## **K. GENERAL PUBLIC COMMENTS**

Chairman Woodle asked for any public comments. With no comments, the Chairman proceeded to Education.

## **L. EDUCATION**

Board Member Langemeier moved to take the following actions on education activities and instructors as listed:

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

#### **The Moore Group**

Residential Appraising: New Things to Think About (C21608)/7 Hours – *Approve*

Bradford Moore – *Approve*

Diane Moore - *Approve*

**OREP Education Network**

How to Support and Prove Your Adjustments (C21609-I)/7 Hours – *Approve*

Richard Hagar - *Approve*

**McKissock, LP**

Appraisal of Single Tenant Distribution Centers (C21610-I)/6 Hours – *Approve*

Tracy Martin - *Approve*

Basic Hotel Appraising – Limited Service Hotels (C21611-I)/7 Hours – *Approve*

Tracy Martin - *Approve*

**RENEWAL OF QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS**

**American Society of Farm Managers and Rural Appraisers**

Sales Comparison Approach for General Appraisers (CG006)/30 Hours – *Approve*

Justin Bierschwale – *Approve*

Charles Scott Seely – *Approve*

LeAnn Moss – *Approve*

Paul Bierschwale - *Approve*

**RENEWAL OF CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS**

**McKissock, LP**

Mold, Pollution and the Appraiser (C21117-I)/2 Hours – *Approve*

Dan Bradley - *Approve*

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

No action was taken on the American Society of Farm Managers and Rural Appraisers course titled Sales Comparison Approach for General Appraisers and the submitted instructors for this course due to Neb. Rev. Stat. § 76-2236 (8),(9).

**M. UNFINISHED BUSINESS**

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

Director Kohtz informed the Board that a second applicant has been received, and asked if the Board has any feedback. There was no further discussion.

**N. NEW BUSINESS**

**1. BOARD MEMBER RECOGNITION:** Director Kohtz presented a price quote, design proof, and CADD drawings prepared by Cornhusker Industries related to the board member recognition plaque discussed at the February meeting to the Board to review. The Director informed the Board that he chose to start big, and the Board can work backwards from this point. Chairman Woodle expressed satisfaction with the overall design. Board Member Langemeier asked how big the plaque is in the proof. Director Kohtz responded that the design is three foot by five foot. Board Member Langemeier requested that the overall size be reduced to two foot by three foot. Board Member Langemeier also added that tags could be reduced to one by three inches, and the number of tags could be reduced to approximately sixty in total. Chairman Woodle agreed with Board Member Langemeier’s request. Chairman Woodle, and Board Members Langemeier and Hynek discussed the tag color and layout, but agreed that the current colors and layout is sufficient. Board Member Langemeier then asked that the names be filled from left to right first, and top to bottom second. Director Kohtz informed the Board that he will have the price quote and design proof updated to reflect these requests.

**O. LEGISLATIVE REPORT AND BUSINESS**

1. **LEGISLATIVE UPDATE:** Director Kohtz presented Legislative Resolution 493 to the Board for review concerning a potential study to determine if the Appraisal Management Company Registration Act should be updated. The Director also informed the Board that he and Bill Marienau had a discussion about this, and the legislative resolution was introduced with the Director's approval. There was no further discussion.

**P. BOARD POLICIES AND PROCEDURES**

**1. BOARD POLICIES**

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

Break from 12:17 p.m. to 12:25 p.m.

**Q. OTHER BUSINESS**

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

**2. CONFERENCES/EDUCATION**

- a. **Krieger and Langemeier 2016 Spring AARO Conference Report:** Board Member Langemeier and Compliance and Education Specialist Krieger attended the Spring AARO Conference from April 8-10, 2016 in Phoenix, Arizona. CES Krieger began by presenting his notes from the conference to the Board for review. CES Krieger reported that many states tend to use education to address USPAP violations, but aim for revocation or suspension for ethics violations. In addition, many states tend to be much harsher towards AMCs as a way to protect appraisers. CES Krieger continued by reporting that background checks were also a topic of discussion, and the Board appears to be up to date in this area. CES Krieger finished by informing the Board that customary and reasonable fees were a major talking point during the conference. Specifically, the effectiveness of fee studies. CES Krieger indicated that the Director from Louisiana encountered many issues defending the Louisiana study when questions were asked.

Board Member Langemeier also provided a report, and agreed with CES Krieger that many issues were found with appraisal fees studies. When the Louisiana Director was asked about the absolute of the findings in the study, he indicated that the findings were in fact not absolute. The question was asked if an AMC would get into trouble by offering a fee of \$400.00, \$350.00, and then \$300.00. The Louisiana Director answered "probably not," although the customary and reasonable fee established in the report was \$450.00. When asked if \$250.00 was too low, he responded that then the Louisiana Board would investigate. Essentially, he notified all AMCs that they were considered compliant until \$250.00, in contrast to what was established as customary and reasonable through the fee study. The Louisiana Director also had trouble defending the report when a number of other questions were asked as well. Board Member Langemeier provided some interesting facts regarding the minimum amount for a federally related transaction. When the threshold was \$100,000.00, only 4% of transactions were considered federally related, when the threshold was moved to the current \$250,000.00, 12% of transactions are federally related. Board Member Langemeier then moved focus to trainees, and informed the Board that the State of Georgia offers a courtesy review of an appraisal at 500 hours, which would be great if Nebraska could do something like that. Board Member Langemeier finished his report by saying that it would be beneficial for board members to attend investigator training.

Chairman Woodle thanked both Board Member Langemeier and CES Krieger for attending, and expressed his agreeance with Board Member Langemeier that a courtesy review would be beneficial to trainees learning how to become appraisers. Director Kohtz was asked if the Board could implement this option. The Director responded that it could be done through policy, but he would ultimately like to see it implemented through the rules. Chairman Woodle asked if this could be put on the May agenda for discussion. Director Kohtz informed the Board that this topic would be added to the May agenda. The Board also discussed the customary and reasonable fees study, and agreed that it may not be the best route for the Board to go. Director Kohtz informed the Board that this topic will be placed back on the agenda for the May meeting.

3. **MEMOS FROM THE BOARD:** At the March meeting, the Board discussed a series of Memos From the Board focusing on things that the appraisers would find interesting or that would benefit them; the first was to be a legislation and rules update. Director Kohtz informed the Board that, after discussing the initial draft with Chairman Woodle, he felt that a broader discussion was needed. The Director indicated that Chairman Woodle was looking for something quick hitting. During his conversation with Chairman Woodle, Director Kohtz mentioned adding this information to the quarterly memo that covers new credential holders and appraiser counts. Chairman Woodle liked that idea. The Director then presented a draft version of a quarterly newsletter to the Board for review. Director Kohtz indicated that this draft is nothing to make decisions on, but is meant to give the Board an idea of what a quarterly newsletter could look like, and what information could be contained in such of a newsletter. The Board liked the general idea. Board Member Langemeier asked that the “Compliance Corner” include brief summary of each case; similar to the Real Estate Commission’s newsletter. Board Member Hynek asked about the possibility of including something in the newsletter to help explain AMC laws and how it relates to appraisers. Chairman Woodle indicated that this would be a “Director’s Comments” topic, and that Director Kohtz could work with Board Members Gutwein and Hynek on the wording. Director Kohtz informed the Board that he will put a newsletter together for the Board to review and approve at the May meeting, which will include all the recommendations made during this discussion.
4. **APPRAISAL SUBCOMMITTEE:** No discussion.
5. **APPRAISAL FOUNDATION**
  - a. **The Appraisal Standards Board March Q&As:** The Appraisal Foundation’s document titled “USPAP Q&A” issued on March 17, 2016 was presented to the Board for review. This document discussed what is considered to be public trust, and also a revision to an earlier Q&A concerning the appraisal of two lots as one. There was no further discussion.
6. **IN THE NEWS**
  - a. **The Appraisal Buzz Article: A Shortage of Appraisers?:** Director Kohtz presented the Appraisal Buzz article titled, “A Shortage of Appraisers?” to the Board for review. The Director indicated that it is always interesting to see the different points of view on this topic. This article was written by David Bunton with The Appraisal Foundation. It is Mr. Bunton’s position that the shortage is primarily local and market driven. Chairman Woodle indicated that he liked the comment that there may be a shortage of appraisers willing to accept assignments below a certain fee threshold, not necessarily a shortage in the number of appraisers. He continued by saying that the data shows that the number of certified general appraisers is on the rise, which may also be the result of more appraisers wanting to have a more diverse practice.

- b. The Appraisal Buzz Article: Collateral Risk Network Submits Comments to FFIEC:** Director Kohtz presented the Appraisal Buzz article titled, “Collateral Risk Network Submits Comments to FFIEC” to the Board for review. The Director summarized the article, and indicated that the sections on evaluation vs. appraisal and raising the minimum threshold for a federally related transaction are interesting to read. There was no further discussion.

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

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

**CR16002R / Requirements for credentialing as a Certified Residential Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**

**CG2016006R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**

**T2016002 (SA) / Approve as Supervisory Appraiser.**

**CG15015 / Hold**

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

Board Member Langemeier moved to approve all renewal applications received at that Board’s office postmarked between March 18, 2016 and April 19, 2016 with advisory letters. The motion was seconded by Gutwein, and carried with Hynek, Gutwein, Langemeier, and Woodle voting aye.

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

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

**NE2016006 / Requirements for registration as an appraisal management company approved as submitted. Authorize Director to issue registration upon completion of background check.**

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

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

**Item 1 / Approve renewal of registration as an appraisal management Company; send advisory letter.**

**Item 2/ Open Investigation 16-04 for violation of Neb. Rev. Stat. § 76-3216 (1)(c).**

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

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

Board Member Langemeier moved to take the following enforcement actions:

**16-02 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (1).**

**16-03 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (16).**

**14-22 / Select report and send for Standard 3 review.**

**14-23 / Monitor Consent Agreement; refer to 14-22.**

**14-24 / Monitor Consent Agreement; refer to 14-22.**

**14-26 / Monitor Consent Agreement; refer to 14-22.**

**14-27 / Monitor Consent Agreement; refer to 14-22.**

**15-03 / Ongoing**

**15-05 / Hold**

**15-09 / Hold**

**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, Langemeier, Gutwein, and Woodle voting aye.

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 Hynek, Langemeier, and Woodle voting aye. Gutwein recused herself.

Board Member Langemeier moved to take the following enforcement actions:

**14-32 / Hold**

**14-33 / Hold**

**14-35 / Authorize Special Assistant Attorney General Blake to file formal charges for violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (4) and (14), and authorize Director Kohtz to negotiate a Consent Agreement through Special Assistant Attorney General Blake.**

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



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

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

**I14-32 / Hold**

**I14-33 / Hold**

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

**R. ADJOURNMENT**

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

At 12:51 p.m. Chairman Woodle adjourned the April 21, 2016 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz  
Director

These minutes were available for public inspection on May 6, 2016, in compliance with Nebraska Revised Statute §84-1413 (5).