

**REAL PROPERTY APPRAISER BOARD
Conference Room “C”, Lower Level
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

February 28, 2013 Meeting Minutes

Swearing in of new Board Member Christopher Langemeier took place prior to the start of the meeting.

A. OPENING

Chairman Philip Barkley called to order the February 28, 2013 meeting of the Nebraska Real Property Appraiser Board at 9:06 a.m., in conference room C 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 February 26, 2013 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, Marc Woodle and Chris Langemeier were present. Also present were Director, Tyler Kohtz, and Staff Assistant, Gail Parris. Board Member Eldon Terrell was 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 Woodle moved to adopt the Agenda as printed. Board Member Langemeier seconded the motion. With no further discussion, the motion carried with Kubert, Woodle, Langemeier 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 9:08 a.m. Board Member Langemeier seconded the motion. The motion carried with Kubert, Woodle, Langemeier and Barkley voting aye.

Break from 10:29 a.m. to 10:49 a.m.

Board Member Kubert moved to come out of executive session at 11:33 a.m. Board Member Woodle seconded the motion. The motion carried with Kubert, Woodle, Langemeier and Barkley voting aye.

Break from 11:33 a.m. to 12:00 p.m.

WELCOME GUESTS

Chairman Barkley welcomed the guests to the meeting and asked that they please sign the guest log. Diane Moore was the only public member in attendance.

F. APPROVAL OF THE MINUTES FROM JANUARY 2013

Chairman Barkley asked for any additions or corrections to the January 17, 2013 minutes. Board Member Kubert asked that the sentence "The Appraiser was requested by the Board to provide a work log on the Board approved format" is added after the second to last sentence in the fourth paragraph under section "E." The Director indicated that the requested change will be made. Board Member Woodle moved to adopt the minutes as amended. Board Member Kubert seconded the motion. The motion carried with Kubert, Woodle and Barkley voting aye. Langemeier abstained.

G. CHAIRMAN'S REPORT

Chairman Barkley welcomed board members and staff to the meeting. The Chairman began by welcoming Chris Langemeier to his new duties as a Real Property Appraiser Board Member. Chairman Barkley made note of the vast array of expertise now represented on the Board. The Residential, Commercial and Agricultural sectors each have representation. The Chairman went on to wish Board Member Terrell a quick recovery from his illness. Finally, Chairman Barkley brought attention to future events. He will be speaking to the Western Nebraska Mortgage Bankers Association and Board Member Kubert will be speaking to the Nebraska Association of County Officials. On March 7th, Joya Weir will also be starting as the Board's Compliance and Licensing Specialist.

H. DIRECTOR'S REPORT

Director Kohtz presented ten charts outlining the number of appraisers and AMCs as of February 28, 2013. The Director summarized each chart and reported the number of appraisers as follows: 81 total Licensed, 74 resident and 7 reciprocal; 202 total Certified Residential, 169 resident and 33 reciprocal; 353 total Certified General, 246 resident and 107 reciprocal; and 11 Registered for a total of 647 appraisers. The total number of appraisers is up 17 from January. The Director also added that many renewal applications are still being submitted to the Board's office, and although the number of credentialed appraisers is down 17 from the 664 reported in February 2012, the Director anticipates that this gap will continue to close during March.

The Director also addressed the number of temporary permits issued. There were 22 permits issued in January compared to 6 permits issued in December. Director Kohtz indicated that the number of temporary permits issued should hold steady during 2013. Finally, Director Kohtz reported 92 AMCs registered, and six new AMC applications have been submitted since the last meeting.

I. FINANCIAL REPORT – JANUARY 2013

The receipts and expenditures for January were reviewed by the Director by line item with the Board, and Director Kohtz made note of some specific January expenses. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$20,906.27 in expenditures and \$48,032.98 in receivables were reported. As of the end of January, expenses amount to 44 percent of the budgeted expenditures for the fiscal year; 59 percent of the fiscal year has passed. Considerations were made for expenditures for monthly obligations. No considerations were made for expenditures other than monthly obligations. 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 January 2013 Budget Status reports for receipts and expenditures for audit. Board Member Woodle seconded the motion. The motion carried with Kubert, Woodle, Langemeier and Barkley voting aye.

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Director Kohtz provided a summary regarding the agency's Appropriations Committee hearing. The Director expressed satisfaction with the current preliminary appropriations, but requested that an additional \$10,000.00 be included for the online credentialing project, and an additional \$7,902.00 for FY 14 and \$4,002.00 for FY 15 be included for the office relocation project. The Director also made a request that the committee remove the agency's earmark for legal services. A discussion took place regarding the requested funding for USPAP books. Board Member Langemeier will contact Appropriations Committee Chairperson, Senator Mello, to discuss this request.

A discussion took place regarding the agency's cash fund balance. One of the issues mentioned in the Attestation Report for the audit conducted by the Auditor of Public Accounts in 2012 was the cash fund balance. It was recommended that the Board establish a policy determining the appropriate amount for the fund balance. Director Kohtz began the conversation by explaining the need to establish a policy regarding the fund balance. Board Member Langemeier indicated that it is very important to justify the balance outlined in the policy. The agency must determine what it would potentially need additional funds for beyond its current revenues. Board Member Langemeier mentioned decrease in appraisers, potential litigation, increase in investigation costs due to federal mandates, and AMCs going bankrupt are examples of what must be considered. Director Kohtz indicated that he will draft a Board Policy based on the discussion.

The Board reviewed a pricing detail provided by State Building Division for the purchase of two workstations. The pricing detail included all parts needed to construct the workstations at a cost of \$7,883.72. Director Kohtz was asked if this price included installation, and he responded that it did not. The estimate provided by Dave Brookes, Facility Maintenance Supervisor for the State Office Building, included the installation costs. Director Kohtz was also asked if this purchase would have an impact on any of the Board's other finances. The Director explained that the Board has more than enough funds in its current budget to make this purchase. The Director went on to say that money has been moved from PSL to operations to reflect current staffing. The surplus from this change equates to \$16,480.00 after consideration for this purchase. Board Member Kubert made a motion to approve the purchase of two workstations for \$7,883.72. Board Member Langemeier seconded the motion. The motion carried with Kubert, Woodle, Langemeier and Barkley voting aye.

J. GENERAL PUBLIC COMMENTS

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

K. EDUCATION

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

1. AQB/CAP Core Curriculum Requests

A. The Moore Group, Lincoln, NE:

- 1. General Sales Comparison Approach / 30 hours / Q21304**
- 2. General Site Valuation and Cost Approach / 30 hours / Q21305**

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

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

2. New Continuing Education Requests

A. American Society of Farm Managers and Rural Appraisers, Denver, CO:

1. Appraising Natural Resources / 8 hours / C21259

3. Continuing Education Renewal Requests: *None*

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

Board Member Kubert moved to approve the following instructors as listed:

4. Instructor Approval Requests

A. American Society of Farm Managers and Rural Appraisers, Denver, CO:

1. Justin Bierschwale – Appraising Natural Resources / C21259

B. The Moore Group, Lincoln, NE:

1. Bradford K. Moore - General Sales Comparison Approach / Q21304, and General Site Valuation and Cost Approach / 30 hours / Q21305

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

K. UNFINISHED BUSINESS

1. **APPOINTMENT OF REAL ESTATE BROKER/CREDENTIALLED APPRAISER BOARD MEMBER:** No discussion, welcome Board Member Langemeier.

2. **COUNTY APPRAISER CONTRACTS UPDATE:** Board Member Kubert indicated that he will be speaking at the Nebraska Association of County Officials on March 14, 2013. Board Member Kubert intends to discuss the provisions found in the Real Property Appraiser Act requiring that an individual contracting with a county for appraisal services must be a properly credentialed appraiser, and also gauge interest in the Board's intent to develop an associate pool.

3. **NEW CREDENTIAL UPDATE:** No update.

L. NEW BUSINESS

1. **APPRAISAL BUZZ ARTICLE CONCERNING CUSTOMARY AND REASONABLE RULES:** A discussion took place regarding the State of Louisiana's bill concerning customary and reasonable fees. Chairman Barkley indicated that he is not in favor of such legislation because fees are so different throughout the state in a state like Nebraska. What would be considered customary and reasonable in North Platte may not be in Lincoln or Omaha, or vice versa. The Board agreed that legislation in other states regarding this matter should be monitored.
2. **ONLINE QUALIFYING EDUCATION:** A letter was written to the Board requesting that online courses be allowed for qualifying education. A discussion took place concerning this topic. It is the Board's opinion that online courses do not provide the depth needed to gain an adequate understanding of appraisal practice for those learning the profession, but agreed that the topic should be revisited periodically.

3. **STANDARD 3 REVIEWER FEES:** A discussion took place regarding the fees paid to those that do Standard 3 reviews for the Board. Chairman Barkley brought attention to the liability involved with performing a review related to an investigation. The Chairman feels that the current level of compensation does not adequately reflect the liability taken on by the appraiser. Suggestions by board members included a tiered compensation plan, higher fees for compliance related reviews, fees established by the Board for each review, appraiser defined fees, and allowing continuing education credit for those conducting reviews. The Board agreed to continue this discussion next month.

M. BOARD POLICIES AND PROCEDURES

1. BOARD POLICIES

- a. **CURRENT BOARD POLICIES:** No discussion took place

O. OTHER BUSINESS

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

2. **APPRAISAL FOUNDATION**

- a. 1st Exposure Draft of Proposed Interpretation to Qualification Criteria: No discussion.
- b. Qualifications Board Q and A: No discussion.

C. CONSIDERATION OF APPLICANTS

1. **CREDENTIALING AS NEBRASKA REAL PROPERTY APPRAISER:** Board Member Kubert moved to take the following actions for credentialing applicants as listed:

ST216 / Approved as Trainee Real Property Appraiser

CG631 / Send report for review

CG651R / Approved for credentialing as Certified General appraiser

CG653R / Approved for credentialing as Certified General appraiser

CG13001R / Approved for credentialing as Certified General appraiser

CG13002R / Approved for credentialing as Certified General appraiser

CG13003R / Approved for credentialing as Certified General appraiser

CG13004R / Approved for credentialing as Certified General appraiser

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

2. **REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:** Board Member Kubert moved to take the following actions for AMC applicants as listed:

NE2012094 / Approved

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

D. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS:

Vice Chair Kubert moved to take the following enforcement actions:

- 11-03 / Offer informal**
- 11-12 / Hold**
- 11-21 / Request two true copies of two appraisal reports and workfiles**
- 11-22 / Request two true copies of two appraisal reports and workfiles**
- 11-26 / Request two true copies of two appraisal reports and workfiles**
- 12-03 / Hold**
- 12-06 / Consent Agreement signed by Board Chair**
- 12-11 / Hold**
- 12-12 / Hold**
- 12-14 / Hold**
- 12-15 / Hold**
- 12-20 / Offer original terms**
- 12-21 / Hold**
- 12-24 / Hold**
- 12-27 / Hold**
- 12-28 / Dismiss without prejudice**
- 12-29 / Hold**
- 12-30 / Hold**
- 12-31 / Hold**
- 12-32 / Hold**
- 12-33 / Hold**
- 12-34 / Hold**
- 13-01 / Hold**
- 13-02 / Hold**
- 13-03 / Hold**
- 13-04 / Hold**
- 13-05 / Send letter of inquiry**

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

E. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

During review of an application for renewal of a credential, it was found that the appraiser answered a question incorrectly. The appraiser was requested to provide a written response explaining the answer. A discussion took place regarding the appraiser's response.

During review of an application for renewal of a credential, it was found that the appraiser answered two questions incorrectly. The appraiser was requested to provide a written response explaining each answer. A discussion took place regarding the appraiser's responses.

A grievance was filed against an appraiser concerning an alleged fraudulent appraisal report. The report date for the subject appraisal report is outside of the USPAP retention requirements. In accordance with Board Policy 12-05, the Board will not investigate a grievance filed in which the subject appraisal report has a report date that has exceeded its USPAP retention. The Board discussed the evidence concerning this grievance, and agreed to adhere to Board Policy 12-05. The grievance will not be investigated.

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A grievance was filed against an organization that allegedly failed to make payment of fees to the Complainant within 60 days after the date on which the appraiser provided the report to the organization. The organization is not registered as an AMC in Nebraska. A discussion took place regarding this matter. The Board agreed that it has no jurisdiction over this organization to investigate a violation of Neb. Rev. Stat. § 76-3215 (1), but the organization did engaged in business as an AMC in Nebraska without first obtaining registration issued by the Board. The Board assigned inquiry number I13-1 to the matter; the grievance will not be investigated.

The Board discussed personnel matters.

Vice Chair Kubert moved to take the following actions for the above mentioned matters:

Item 1 / Renew credential and send advisory letter

Item 2 / Renew credential and send advisory letter

I12-1 / Hold

I12-5 / Hold

I12-12 / Hold

I13-1 / Send advisory letter to Complainant of grievance and send letter to organization informing it of its obligation to adhere to the AMC Registration Act.

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

P. NEXT MEETING DATE – MARCH 21, 2013, LOWER LEVEL “F” NSOB

Q. ADJOURNMENT

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

At 1:47 p.m. Chairman Barkley adjourned the February 28, 2013 meeting of the Real Property Appraiser Board. The next meeting is scheduled for March 21, 2013 in Conference Room F located on the Lower level of the NSOB.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on March 12, 2013, in compliance with Nebraska Statute §84-1413(5).