

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
1526 K Street, Suite 4D, Lincoln, Nebraska

Minutes
November 12, 2015

Draft Minutes. Minutes are not approved until the next Board meeting on 1-8-2016

Thursday, November 12, 2015

1. General

- A. Call to Order and Roll Call.** The Nebraska Board of Public Accountancy (Board) was called to order at 8:34 a.m. on Thursday, November 12, 2015 with Chair Bernie Gutschewski presiding. The roll was called with the following members present: Bernie Gutschewski, Lori Druse, Marcy Luth, Michele Stromp, Michael McClure, Thomas Purcell, Glen Waltemath, and Ken Brauer. Also present were Executive Director Dan Sweetwood and Staff members Heather Myers, and Jo Lowe. Intern Lisa Steffensmeier was present, and new Board Intern Cale Brodersen was introduced to Board Members. The meeting was held at the Board Office, 1526 K Street, in Suite 4D, Lincoln, Nebraska. Chair Gutschewski noted the location of the notebook containing the Public Open Meeting Act, and asked if anyone present needed an agenda or had any questions regarding the law. Also present were Dan Vodvarka and Trudy Meyers, Nebraska Society.
- B. Approval of Meeting Agenda for Thursday, November 12, 2015.** Chair Gutschewski overviewed the agenda and requested Item #8/ Legislative Committee report moved to the front of the agenda to ensure the approval of the 2015 Rule Package. Moved by Druse, seconded by Stromp, to approve the agenda for the Thursday, November 12, 2015 meeting. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #1 carried.
- C. Approval of Minutes from September 10, 2015.** Moved by Druse, seconded by McClure, to approve the Board minutes with minor changes from the September 10, 2015 meeting. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #2 carried.

New Board member Kenneth Brauer was sworn in by Board Chair Gutschewski.

2. Public Comment Period (15 minute period)

Dan Vodvarka, Nebraska Society of CPAs President, gave an update of Society news including continued participation in Society offered CPE courses. He welcomed new Board member Brauer. He also reported The Society annual senator's reception will be January 5, 2016.

Hearing Officer Bernie Gutschewski opened the hearing at 9:06 am for Rodney Zwiygart's request to return his revoked certificate to good standing. Mr. Zwiygart's Board issued certificate was administratively revoked by the Board on November 6, 2003. The Board was represented by Board attorney Robert Gruit. Mr. Zwiygart was represented by his attorney, Robert Bartle. The hearing closed at 11:34 am.

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Closed Session

Closed Session. Moved by Stromp, seconded by Luth, that the Board go into closed session at 12:08 p.m., on Thursday, November 12, 2015, for the purpose of discussing the Public Comment Hearing involving Mr. Zwygart's request. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #3 carried.

Return to Open Session. Moved by Druse, seconded by Luth, that the Board return to open session at 12:42 p.m., on Thursday, November 12, 2015. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #4 carried.

3. Consent Agenda

- A. Published Notice of Meeting.** Moved by Stromp, seconded by McClure, to approve the consent agenda. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #10 carried.
- B. Review of Disbursements for September & October 2015.** Secretary Luth overviewed the disbursements for the Board.
- C. Review of Board Budget Status Report.** The current budget status report was provided and reviewed.
- D. Office Licensing Report.** The Office Licensing Report was provided to the Board and was overviewed by Administrator Lowe.

4. Report of the Chair

- A. Report of the Chair.**
- B. Swearing in of new Board Member.** Member Brauer was sworn in by Chair Gutschewski before the Board.
- C. NASBA Annual Meeting Report, Dana Point, CA, October 25-28, 2015.** Members Stromp and Druse overviewed items discussed during the NASBA Annual Meeting Conference, October 26-28, 2015, Dana Point CA. Several important topics were discussed including the future of accounting education, inactive registrant status within the UAA, the CGMA designation used by the AICPA, demographic trends and effects pm the CPA profession, Peer Review updates, and meetings within the Central Region. Member Stromp acknowledged ED Sweetwood for receiving the Lorraine P. Sachs Award for Standard of Excellence for Board executive directors at the meetings. Moved by Stromp, seconded by Druse, to congratulate ED Sweetwood on the achievement of the award. ED Sweetwood acknowledged the assistance of current and past Boards for allowing him to remain active within NASBA Committees during his twelve year career and assist him in understanding the CPA profession. He also acknowledged Administrator Lowe for being at his side during the last twelve years and providing

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excellent assistance while also providing exceptional support to licensees and the public. Ms. Lowe is scheduled to retire in 2016.

- D. **Review Board Calendar.** Discussion was held regarding future meetings but no changes to the current calendar.
- E. **Report on To Do List.** There was no report on the To Do list at this time.

Closed Session

Closed Session. Moved by Stromp, seconded by Waltemath, that the Board go into closed session at 1:59 p.m., on Thursday, November 12, 2015, for the purpose of discussing enforcement cases. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #12 carried.

Return to Open Session. Moved by Stromp, seconded by Druse, that the Board return to open session at 2:21 p.m., on Thursday, November 12, 2015. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #13 carried.

5. Report of Enforcement of Professional Conduct Committee

- A. **Open Case/LMCO Update.** Committee Chair Stromp gave the report.
- B. **Public Hearing for Return of Certificate requested by Rodney Zwygart.**

BEFORE THE STATE BOARD OF
PUBLIC ACCOUNTANCY OF THE STATE OF NEBRASKA

STATE OF NEBRASKA, ex. Rel.,)	
STATE BOARD OF PUBLIC ACCOUNTANCY OF THE)	
STATE OF NEBRASKA,)	
)	DECISION AND ORDER
Plaintiff,)	
)	
vs.)	
)	
RODNEY G. ZWYGART,)	
)	
Defendant/Respondent.)	
)	

On the 12th day of November, 2015, a formal hearing was held on the written request of Rodney G. Zwygart, pursuant to §1-150 of the Act, for reinstatement of his CPA certificate. The hearing was conducted by the Board Chair, Bernie Gutschewski, at the office of the Board. The Board was represented by Robert T. Gritmit and the Respondent appeared in person and was represented by an attorney, Robert Bartle. All Board members (Bernie Gutschewski, Lori Druse, Marcy Luth, Michele Stromp, Michael McClure, Tom Purcell, Glen Waltemath, and Kenneth Brauer) were present and in attendance at the hearing and voted in favor of this Decision and Order.

Exhibits 1-23 were offered and received into evidence without objection. Testimony was presented. The records and exhibits properly reflect that notice was properly made on the Respondent for the date and time of the hearing.

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DECISION AND ORDER / FINDING OF FACT / CONCLUSIONS OF LAW

Upon consideration of the matter, the Board finds as follows:

1. Respondent's Certificate was previously revoked by the Board in a Decision and Order dated November 6, 2003. The said Decision and Order was based upon Respondent's conduct as set forth in said Decision and Order.
2. The Respondent's prior conduct involved dishonesty, fraud, deceit and misrepresentation.
3. Pursuant to §1-150 of the Act, the Board "may" issue a new certificate to a former certified public accountant whose certificate has been revoked. Although the Board finds that it is not required or necessary under the circumstances to refer to Board Rule Chapter 6, 002.01 et seq. pertaining to Character and Fitness, some guidance may be provided by that Rule (specifically factors set forth in 002.04). There has not been a sufficient showing to support the request for reinstatement.

WHEREFORE, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Respondent's request for reinstatement of his CPA certificate is denied.

IT IS SO ORDERED.

Moved by Purcell, seconded by McClure, to deny reinstatement of Rodney Zwygart's certificate, and direct Board attorney Gruit to prepare the proper Order for the Board Chair's signature. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #5 carried.

C. Recommended Cases to Close. Motion out of Committee to close cases:

#15-05 Complaint involved concern of client not receiving the tax work and records as requested. After further discussions with the CPA firm by staff, the complainant indicated the motivation to continue the complaint diminished. The Committee requested staff to send the CPA a letter detailing requirements within Title 288/ Chapter 5 regarding returning client records.

On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #14 carried.

#15-08 CPA firm properly reported a civil matter filed by a former client. Committee reviewed the pleadings in the matter and after notification of settlement proceedings recommended the matter be closed.

On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #15 carried.

#15-10 CPA firm properly reported a civil matter filed by a former client. Committee reviewed the pleadings in the matter and after notification of settlement proceedings recommended the matter be closed.

On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #16 carried.

E. Report on To Do List. There was no report at this time.

6. Report of Continuing Professional Education (CPE) Committee

- A. Report of the Committee.** Committee Chair Purcell gave the report. The Committee reviewed a total of 144 courses from August 25, 2015 to November 2, 2015 with 144 recommended for Board approval and none denied. Motion out of Committee to recommend Board approval of 144 courses. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #17 carried.

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- B. Ratification of CPE Sponsor.** No CPE sponsor applications were received.
- C. CPE Audit.** No report at this time.
- D. Report on To Do list.** The To Dos are listed in the Committee Report.

7. Report of Education & Exam (E&E) Committee

- A. Report of the Committee.** Committee Chair Luth gave the report. The Committee was provided the Q3 -2015 Candidate Exam results. Nebraska appears to have the fourth highest exam passers in the nation. Creighton University and Member Purcell reported Creighton University will launch a CPT Chapter on November 12, 2015. The Education Advisory Committee (EAC) met 10:00 am, October 9, 2015, UN-Kearney with EAC member Kathy Smith as organizer. The meeting was well attended by over 40 students and faculty with an overview by NASBA/CPAES Ms. Pat Hartman, former Board member Doug Skiles, CPA, and Staff Lowe. EAC minutes were attached for Board review. A replacement for Peru State College EAC representative submitted her letter of application. Motion out of Committee to approve Cassandra Weitzenkamp, CPA, as a member of the EAC. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #19 carried. Member Purcell and staff continue to work on the Board ethics exam implementation with a January 2016 launch date. Member Stromp and staff prepared a draft response for Board review regarding response to the Board of Examiners (BOE) Practice Analysis proposed for the 2017 revision of the Uniform CPA exam. Copies were available for Board members with the response due by November 30, 2015.
- B. Ratification of CPA Exam Scores.** Moved by Stromp, Seconded by Waltemath, to approve the exam scores for the July- August 2015 exam window. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #18 carried
- C. Report on To Do List.** There was no report at this time.

8. Report of the Legislative Committee

- A. Report on Legislation:** Chair Gutschewski overviewed the 2015 Rule Package including the rules hearing held at the Capitol, 10:00 am, October 23, 2015, with no major comment changes heard. Member Luth, Chair of the Education and Examination Committee, reported that Chapter 9 received comments at the Education Advisory Committee Meeting, October 10, 2015 and recommended withholding of Chapter 9 revisions until further review. Moved by McClure, seconded by Luth, to approve Title 288 Rules Chapter 3 revisions and to forward to the Attorney Generals' office and the Governor's Policy Research Office for final review and approval. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #6 carried. Moved by Purcell, seconded by Waltemath, to approve Title 288 Rules Chapter 4 revisions and to forward to the Attorney Generals' office and the Governor's Policy Research Office for final review and approval. On a roll call

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vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #7 carried. Moved by Waltemath, seconded by Brauer, to approve Title 288 Rules Chapter 8 revisions and to forward to the Attorney Generals' office and the Governor's Policy Research Office for final review and approval. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye Motion #8 carried. Moved by Luth, seconded by McClure, to approve Title 288 Rules Chapter 13 revisions and to forward to the Attorney Generals' office and the Governor's Policy Research Office for final review and approval. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #9 carried. ED Sweetwood thanked Board members for diligence and follow through on the Rule change process. He covered proposed changes to the PAA for the 2016 legislative session.

- B. Report on To Do List.** There was no report at this time.

9. Report of Quality Enhancement Program (QEP) Committee

- A. Report of the Committee.** Committee Chair McClure reported the 2015 QEP program was completed and no new items to report.
- B. Report on To Do List.** There was no report at this time.

10. Report of the Licensing Committee

- A. Report of the Committee.** Committee Chair Druse gave the report.
- B. Licensing Issues.** The Committee discussed one Business, Governmental, Academia (BGA) experience application held for further clarification. Retired CPA status as proposed by NASBA received several comments. The Committee recommended staff write a letter to NASBA to request clarification of the NASBA Committee's purpose.
- C. Ratification of initial permits to practice issued, certificates issued, firm permits.** Moved by Luth, seconded by Waltemath, to recommend Board approval of initial permits to practice issued, certificates issued, firm permits issued from September 1, 2015 to November 10, 2015. On a roll call vote, Members Gutschewski, Druse, Luth, Stromp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #20 carried.
- D. Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates.** There were no Reinstatements to Active Permit, Inactive Retired Affidavits, Surrendered Certificates at this time.
- E. Report on To Do List.** There was no report at this time.

11. Report of Executive Director

- A. Staff Activity: NASBA Annual Meeting Report, Dana Point, CA.** Staff member Lowe provided a written report and ED Sweetwood overviewed his thoughts from the annual meetings.

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- B. Budget Status Update.** ED Sweetwood indicated a mid-biennium budget request was required due to the planned retirement of Administrator Lowe and requested Board approval to continue the submission request to cover additional Personnel Service Limitation (PSL) appropriations needed upon the retirement of Ms. Lowe. Moved by Waltemath, seconded by Purcell, to continue the mid biennium budget request process. On a roll call vote, Members Gutschewski, Druse, Luth, Stomp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #21 carried.
- C. Staffing & General Office Issues.** Administrator Lowe introduced the new Board intern and congratulated Lisa Steffensmeier for her work.
- E. Report on To Do List.** There was no report at this time.

12. New Business

- A. NASBA Items:**
 - 1.) NASBA:** Board members reported on committee assignments by NASBA. ED Sweetwood indicated he was placed on the Enforcement and Awards Committee of NASBA. He was also placed on the Board of Examiners (BOE) as the executive director representative for the next three years.
 - 2.) NASBA FYI articles.** Articles were provided to the Board.
- B. Other Miscellaneous Items: FYI articles.** Articles were provided to the Board.

13. Adjournment

Moved by Luth, seconded by Druse, to adjourn the meeting at 3:20 p.m. on November 12, 2015. On a roll call vote, Members Gutschewski, Druse, Luth, Stomp, McClure, Purcell, Waltemath, and Brauer voted aye. Motion #22 carried.

Respectfully submitted by,

Board Secretary
Marcy Luth