

OKLAHOMA ABSTRACTORS BOARD

MINUTES OF REGULAR MEETING

January 19, 2016

1. A regular meeting of the Oklahoma Abstractors Board (OAB) was called to order by Chairman Chaney Haynes at 10:00 a.m., at the OLERS Conference Room, 421 NW 13th Street, Suite 100, Oklahoma City, Oklahoma.
2. Mark Luttrull called the roll. Attending were, Chaney Haynes, Charles Nichols, Ralph Harrison, Mark Luttrull, John Bailey, Robert Getchell, Corky Heard, Ken McDowell, J Thomas.
3. The Minutes of the Regular Meeting of the OAB, conducted on December 15, 2015, were reviewed. After review, a motion was made by Mr. McDowell to approve the minutes as presented. The motion was seconded by Mr. Nichols. Motion carried.
4. **Chairman's Report-Chaney Haynes:** Chaney Haynes welcomed the attendees and guests and stated that he hoped everyone had a nice holidays and that he was looking forward to 2016.
5. **Administrator's Report (Board Report):** Ms. Smith reported that there will be some changes to the inspection schedule. Due to the fact that much of the upfront preparation can be done in-office rather than in the field, it will enable a more efficient inspection schedule and the ability to inspect more often (every 2 years) to better stay in touch with the industry. Despite the additional inspections, there would still be a significant cost savings and require the inspector to be out of the office fewer days throughout the year.
6. **Committee Reports.**
 - a.) **Budget and Finance-J Thomas:** Mr. Thomas, gave an update on the budget and presented the "Operating Budget Comparison by Department and Account" report showing the total budget for the year is \$311,275. Expenses YTD are \$101,801.26 the Outstanding Encumbrances \$42,998.08 for total expenses and encumbrances of \$144,799.34 with a variance of \$166,475.16 and our YTD variance is \$11,364.41. "Allotment Budget and Available Cash" showing that our available cash at the end of the month is \$338,614.25. The next report is the "Summary of Receipts and Disbursements" showing revenue of \$137,670.90 and expenditures of \$105,043.62. The next report is the Six-Digit Object of Expenditure" report, showing our expenses for the month at \$17,157.89, and YTD expenses at \$105,043.62. The final report we have today

is the “Six-Digit Expenditure Detail” report, which covers each month from the beginning of the fiscal year for comparison purposes shows a net amount of \$5,257.60. Our “Outstanding Encumbrances Report” shows that we have funds encumbered are \$52,432.01. Ms. Smith noted that she was working with the Accounting Department to release any outstanding encumbrances that are no longer relevant so that figure should go down significantly on the next report. After review and discussion, a motion was made by Mr. Nichols to approve the report as presented. Second by Mr. Bailey. Motion carried.

- b.) **Rules and Regulations-Ralph Harrison:** Mr. Harrison reviewed the timeline of the Rulemaking Process. A 30 Day Review period is required, followed by a hearing and then the Rule will be adopted. Because of the timelines involved, we will be moving the March meeting to the 4th Tuesday, March 22nd, so that the public comment period could pass and the rule could be finalized and approved at the Board Meeting. That would allow the Board to have the Public Hearing on March 18th and would allow the Board time to review the comments and give ample time to summarize comments prior to being presented at the Board Meeting. A draft of the proposed rule was distributed to the Board Members. The Rules Committee chose to address the subject of “Independent Records” and what that really means. They have met after the Board Meetings over the past few months, both in private and with members of OLTA present and offering input. Their goal is to clarify the definition of an “abstract plant” as it appears in the rules. The changes were based upon existing language in Title 1 as well as the Oklahoma Supreme Court case of TIM vs. OLTA from 1984. Mr. Luttrull stated that the definition of “independent” from Merriam Webster defines it as “not subject to control by others and not affiliated with a larger controlling unit. His thought had been that it referenced being independent from the County and Court Clerks. Once they got into the court case, it stated that “based upon the intention of the Legislature, that the prospective abstractor has developed its own system of abstracting...” and he believed that the idea of leasing an abstract plant from another doesn’t meet the definition of independent because it would be under the control of others and that it didn’t allow for the validity of a “common carrier”. Mr. Harrison pointed out that the case referred to the previous statutes but that section had been moved to Section 27 in the current Title 1.

Mr. Harrison made the motion that the Board move forward with the Notice of Rulemaking Intent and the draft rule. Seconded by Mr. Luttrull.

Mr. Getchell asked about who all had been attending the meetings and having input into the proposed rule. He also noted that based upon his reading of the proposed rule and presented reference materials, he didn’t feel a change in the rule was needed and that it could be construed as an impediment to the

purchase of an abstract plant because it hadn't been developed by the purchaser. Mr. Crittenden noted that a large part of the goal was to avoid a situation where a Lessee would avoid being denied access to an abstract plant, possibly affecting the abstracting process. Mr. Luttrull stated that it was covered in the rule whether someone wanted to purchase a plant in the rule that is being set forth today. Mr. Harrison stated that there were various representatives from OLTA that attended the Rules Committee meetings on a regular basis. Mr. Crittenden also pointed out that there were times when the committee would meet privately. Mr. Haynes noted that he felt that everyone on the Board would agree that the most important part of the industry was the sanctity of the abstract plant. He also noted that the change of the rule may have a broader reaching affect than intended because of existing agreements and expects that much of that will come out during the comment period. Mr. Luttrull stated that he didn't think that we could retroactively affect any existing agreements. He also stated that he didn't like the fact that we allowed dormant plants to remain open and didn't feel that it was represented in the law anywhere. Mr. Haynes stated that the Legislature could "grandfather" certain things in, but the Board did not have that ability. The Board can only make rules and need to be careful and consider how rule changes might affect existing situations. Vote: Mr. Getchell, No; Mr. McDowell, Yes; Mr. Luttrull, Yes; Mr. Nichols, Yes; Mr. Haynes, Yes; Mr. Harrison, Yes; Mr. Thomas, Yes; Mr. Heard, Yes; Mr. Bailey, Yes. Vote passed.

Because of the scheduling issues, Mr. Harrison moved that the March meeting be moved to March 22, 2016 to enable the hearing to be held on March 18, 2016. Second by Mr. Nichols. Vote: Unanimously approved.

- c.) **Licensing and Testing-Corky Heard:** No testing since last meeting. Next test date is January 20, 2016 in Tulsa and January 21, 2016 in OKC.
- d.) **Inspections-Katherine Smith:** None, Ms. Smith completed 6 inspections since the last Board Meeting and presented those for approval. There were a couple of minor notes made during the inspections, but no major findings. Motion to approve Inspection Reports: Mr. McDowell. Second: Mr. Getchell. Vote: Unanimously approved.
- e.) **Enforcement Committee Reports-Robert Getchell:**
Applications for Licenses: Presented to the Board for approval was a list of applicants for abstract licenses or renewals, which are set out in the attachments hereto. A motion was made by Mr. Getchell to approve all of the licenses presented, subject to administrative review and to make sure all compliance issues were met and appropriate fees paid. Second by Mr. Bailey.

Vote: Unanimously approved. Abstention: Mr. Harrison due to licensees from his affiliated company being among those presented for consideration.

Certificates of Authority and Rate Sheets: Presented to the Board for approval were applications for renewal of Certificate of Authority by Abstract & Guaranty of Lincoln County, American Eagle Title Group (Logan County), Antlers Abstract & Title (Pushmataha County), Caddo County Abstract, Cherokee Capitol Abstract & Title (Cherokee County), Cochran Abstract Company (Grady County), Duncan Abstract Company (Stephens County), First American Title & Trust (Canadian County), First American Title & Trust (Cleveland County), First American Title & Trust (Oklahoma County), First American Title & Trust (Pottawatomie County), First American Title & Trust (Tulsa County), Garvin County Abstract Company, Harmon County Abstract, Hugo Abstract & Title, LLC (Choctaw County), Kiowa County Abstract Company, Latimer County Abstract, Lewis Pottawatomie Abstract (Pottawatomie), Love County Abstract Company, Photo Abstract Company (Ottawa County), Solomon Abstract (Kingfisher County), Stephens County Abstract, Tahlequah Abstract & Title Co., LLC (Cherokee County), The Musselman Abstract Company (Washington County), Wagoner County Abstract, Washita Valley Abstract Company (Grady County). A motion was made by Mr. Getchell to approve all the applications. Second by Mr. Heard. Vote: Unanimously approved. Abstention: Mr. Harrison & Mr. McDowell due to their affiliated companies being among those presented for consideration.

Rate Sheets Only: Presented to the Board for approval were rate sheet changes for Grand Valley Abstract (Mayes County), Metro Abstract and Title of Wagoner (Wagoner County), Pawhuska Abstract & Title (Osage County), Wagoner County Abstract. A motion was made by Mr. Getchell to approve the rate sheets. Second by Mr. Nichols. Vote: Unanimously approved.

Permit Renewals: Presented to the Board for approval were permit renewal applications by American Eagle Title & Abstract (Cleveland County), and Southern Oklahoma Abstract & Title (Atoka County). A motion was made by Mr. Getchell to approve the applications. Second by Mr. McDowell. Vote: Unanimously approved.

Mr. Getchell noted that Permit Renewal Applications had been received by Oklahoma Digital Abstract but they have been pushed to the next meeting to allow a company representative to be present to review the status reports presented with the Renewal Applications.

Complaints: Marietta Abstract - The Consent Order against Marietta Abstract with regard to the complaint received against them was reviewed by the Board

and Mr. Getchell made a Motion for approval subject to approval by the Attorney General's Office. Second by Mr. Nichols. Vote: Unanimously approved.

Marshall County Abstract – The Enforcement Committee reviewed a complaint against Marshall County Abstract and upon investigation, it was determined that it was not an issue that pertained to the abstract completion and therefore, the Board did not have any jurisdiction to get involved and declined to take any action. Motion to close the file was made by Mr. Getchell. Second by Mr. Nichols. Vote: Unanimously passed.

Mandy Etheridge: Review of her situation had been pushed to the January meeting, however, she notified the Board that she has a hearing scheduled for February 2nd, therefore, her case will be re-presented at the February meeting.

7. **New Business:** Mr. Haynes asked for any new business, there was none.
8. **Report Legal Counsel-John Crittenden:** John Crittenden stated that he has been working with the Rules Committee and the Enforcement. There are no active cases.
9. **Visitor's Comments:** Mr. Haynes asked for any visitor comments. Ms. Flagler with Cleveland County Abstract inquired about the proposed rule changes to ensure that she was viewing the most recent copy and whether it had been reviewed for conflict with any other statutory requirements.

Mr. Dittmann inquired as to whether a roll was kept for those in attendance of the Rules Committee meetings for the last 6 months. The answer was that there was not.

10. **Announcement of next meeting:** Tuesday, February 16, 2016, at 10:00 a.m., 421 NW 13th Street, Suite 100 (OLERS) Conference Room, Oklahoma City, Oklahoma.
11. The meeting was adjourned by Chairman Haynes.