

Amended at the January 18, 2018 board meeting

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

November 16, 2017 Meeting Minutes

A. OPENING

Chairperson Chris Langemeier called to order the November 16, 2017 meeting of the Nebraska Real Property Appraiser Board at 9:00 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

Chairperson Langemeier 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 November 13, 2017 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 Chris Langemeier, Benjamin Hynek, Gary McCormick, and Christopher Mustoe were present. Also present were Director Tyler Kohtz, Compliance and Education Officer Grant Krieger, and Business and Licensing Specialist Allison Nespor.

ADOPTION OF THE AGENDA

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

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

Board Member Hynek moved that the Board go into executive session for the purpose of reviewing applicants for credentialing; applicants for appraisal management company registration; investigations; pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation; and employee performance evaluation. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. Chairperson Langemeier asked for a second. Board Member Mustoe seconded the motion. The time on the meeting clock was 9:03 a.m. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

William G. Blake appeared before the Board at 9:25 a.m.

James Zalewski appeared before the Board at 9:30 a.m.

Board Member Hynek moved to come out of executive session at 10:02 a.m. Board Member Mustoe seconded the motion. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

Break from 10:02 a.m. to 10:11 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Langemeier welcomed all to the meeting and offered his appreciation for all those in attendance. The Chairperson then welcomed back Board Member McCormick after being absent for the October meeting. Diane Moore was the only member of the general public in attendance.

H. BOARD MEETING MINUTES

1. APPROVAL OF OCTOBER 19, 2017 MEETING MINUTES

Chairperson Langemeier asked for any additions or corrections to the October 19, 2017 meeting minutes. With no further discussion, Chairperson Langemeier called for a vote. Board Member Hynek moved to adopt the October 19, 2017 meeting minutes as presented. Board Member Mustoe seconded the motion. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of November 16, 2017, and provided a brief summary on appraiser count trends. The Director then asked for any questions or comments. There was no further discussion.

2. TEMPORARY PERMIT REPORT

Director Kohtz presented three charts outlining the number of temporary permits issued as of November 16, 2017, and asked for any questions or comments. There was no further discussion.

3. SUPERVISORY APPRAISER COUNT REPORT

Director Kohtz presented two charts outlining the number of supervisory appraisers as of November 16, 2017, and asked for any questions or comments. There was no further discussion.

4. AMC COUNT REPORT

Director Kohtz presented two charts outlining the number of AMCs as of November 16, 2017, and asked for any questions or comments. There was no further discussion.

5. CREDENTIAL RENEWAL PROGRESS REPORT

Director Kohtz presented two charts outlining the credential renewals progress through November 8, 2017. Director Kohtz summarized each chart, and informed the Board that as of today 36% of projected renewal applications have been received, which is far ahead of the 18% for this time last year. Of the 196 applications received, 189 have been processed. Chairperson Langemeier thanked the Director for his report. There was no further discussion.

I. FINANCIAL REPORT AND CONSIDERATIONS –NOVEMBER 2017

1. APPROVAL OF OCTOBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for October were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz brought attention to the conference registration expense of \$500.00 and informed the Board that this expenditure was for the Director's Fall AARO Conference registration. The Director then moved to the HRMS Assessment expense of \$44.50, and indicated that this expenditure is a quarterly assessment for the human resources management system of the State of Nebraska. Director Kohtz then guided the Board to the other operating expense, and informed the Board that the \$16.47 expenditure was for an annual surety bond assessment. Director Kohtz was asked what the surety bond covers. The Director indicated that it was personnel related, but otherwise, he is not exactly sure. Director Kohtz asked the Board if it would like for him to research this assessment. The Board indicated that it is not necessary. Director Kohtz finished by informing the Board that the travel expenses are higher than normal due to the Director's travel to Washington, D.C. for the AARO Conference. As of the end of October, expenses amount to 27.27 percent of the budgeted expenditures for the fiscal year; 33.70 percent of the fiscal year has passed. Finally, Director Kohtz pointed the Board to the revenues, and informed the Board that revenues are right on track. The Director asked for any questions related to the Budget Status Report. There was no further discussion.

The Director then brought attention to the General Ledger for October, and informed the Board that he had no comments. The Director then asked if the Board had any questions pertaining to the General Ledger. There was no further discussion.

Director Kohtz then presented three graphs showing expenses, revenues, and cash balance. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$24,052.83 in expenditures and \$33,967.21 in revenues were reported.

Board Member Hynek moved to accept and file the October 2017 financial reports for audit. Board Member McCormick seconded the motion. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

2. PER DIEMS

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

3. MEMORANDUMS FROM GOVERNOR PETE RICKETTS

Director Kohtz presented two memorandums from Governor Ricketts concerning the General Fund tax receipt forecast and recommended actions for State agencies. Governor Ricketts indicated that tax receipt estimate for the current fiscal year has been revised downward \$123 million, and that he has initiated fiscal restraint measures for code agencies, which includes a hiring freeze, travel ban, limited technology and equipment purchases, and reductions in discretionary grants in aid. The Governor also recommended that non-code agencies implement these fiscal restraint measures as well. Director Kohtz finished by informing the Board that it was not considered for budget changes during the previous fiscal year, but he expects that it will be considered during this fiscal year when the legislature is back in session. There was no further discussion.

K. GENERAL PUBLIC COMMENTS

Chairperson Langemeier asked for any public comments. There were no public comments.

L. EDUCATION

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

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS

The Moore Group

2018-2019 15-Hour National USPAP Course (1181101.04) / 15 Hours –

Bradford Moore, Diane Moore

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

McKissock, LLC

National USPAP Update (2018-2019) (2181101.03) / 7 Hours – Wally Czekalski, Steve Vehmeier, Steve Maher, Philicia Lloyd, Larry McMillen, Dan Bradley, Charles Huntoon

The Moore Group

2018-2019 7-Hour National USPAP Update Course (2181101.04) / 7 Hours –

Bradford Moore, Diane Moore

American Society of Farm Managers and Rural Appraisers

Technology Applications in Appraisal – Google Earth (2171455.01) / 8 Hours –

Julie Rose Gonsalves, Benjamin Holt

7 Hour National USPAP Course (A114) (2181101.01) / 7 Hours – Thomas Dobbin

Seconded by Mustoe. Chairperson Langemeier called for the vote. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

The Board deferred action for three Mid-West Appraiser Association new continuing education activities and instructors until later during the meeting.

M. UNFINISHED BUSINESS

1. OPEN AT-LARGE LICENSED REAL ESTATE BROKER/CREDENTIALLED APPRAISER POSITION

Director Kohtz informed the Board that he has no update. There was no further discussion.

2. OPEN AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS POSITION

Director Kohtz provided an update and requested comments from the Board to provide to the Governor's office concerning the open At-large Representative of Financial Institutions Position. There was no further discussion.

3. ABSTRACTERS BOARD REQUEST

Director Kohtz informed the Board that there is no update.

4. NRPAB DATABASE – ASC FEDERAL REGISTRY SOAP APPLICATION

Director Kohtz informed the Board that there is no update.

5. REAL ESTATE COMMISSION DATABASE INQUIRY

Director Kohtz informed the Board that there is no update.

N. NEW BUSINESS

1. ONLINE 7-HOUR USPAP UPDATE COURSE FOR NON-RESIDENTIAL PROPERTIES

Director Kohtz presented an email from Brad Moore to the Board for review concerning a new online 7-hour USPAP update course that places focus on non-residential properties, such as agriculture, apartments, industrial, retail, and office buildings. Chairperson Langemeier indicated that it would be good for the Board to be aware of the existence of this course. The Chairperson granted Public Member Diane Moore permission to speak. Ms. Moore declared that only McKissock is being allowed to offer it, and it appears to be a test run. Board Member Mustoe asked, "How do you have a specific non-residential USPAP? There is just one USPAP." Ms. Moore brought attention to the fact that a 7-hour USPAP update course for mass appraisers has been available for a while. Director Kohtz added that it has been difficult to find any information on this course; the agency had to contact The Appraisal Foundation just to get a course description. Chairperson Langemeier ended the discussion by reminding the Board that online USPAP courses are not approved for meeting the USPAP update course requirement in Nebraska.

O. LEGISLATIVE REPORT AND BUSINESS

1. LB17

Director Kohtz informed the Board that Michelle Andahl, Legislative Aid for Senator Craighead, has accepted a position as the Sarpy County Election Commissioner. Ms. Andahl was the glue between former Senator Craighead and her appointed replacement. The Director continued by stating that LB17 is now officially an orphaned bill, but that he is working with Bill Marienau to secure a senator to carry the bill across the finish line. There was no further discussion.

2. PROPOSED CHANGES TO REAL PROPERTY APPRAISER ACT

a. SUMMARY OF LEGISLATION

Director Kohtz presented the summary of legislation for REQ3205 and informed the Board that this summary was available to those reviewing the draft.

b. REQUEST FOR COMMENTS AND RESPONSES

Director Kohtz presented the responses received to REQ3205 and informed the Board that there is no opposition or recommended changes to the draft.

c. REQ3205_AUGUST 31, 2017

The Director asked for the Board's approval to begin preparing the draft for introduction. Board Member Hynek moved to approve REQ3205 as presented for introduction as a Legislative Bill. The motion was seconded by Mustoe, and carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

3. TITLE 298_AUGUST 17, 2017 DRAFT

Director Kohtz informed the Board that there is no update.

4. OTHER LEGISLATIVE MATTERS

Director Kohtz asked the Board if it had any other legislative matters that it wished to discuss. There was no further discussion.

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS: No discussion.

2. INTERNAL PROCEDURAL DOCUMENT: No discussion.

3. APPRAISER FORMS AND PROCEDURES: No discussion.

Q. OTHER BUSINESS

1. BOARD MEETINGS

Chairperson Langemeier informed the Board that he has another matter to attend to on December 21, 2017, and requested that the Board consider moving the meeting to December 20, 2017. The Board expressed no concerns with making this change. Board Member Hynek moved to move the December meeting date from December 21, 2017 to December 20, 2017. The motion was seconded by McCormick, and carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

2. CONFERENCES/EDUCATION

a. Kohtz UNL Farm and Rural Property Appraisal Course Presentation; October 30, 2017

Director Kohtz informed the Board that he gave a presentation to approximately forty Farm and Rural Property Appraisal Course students at the University of Nebraska on October 30, 2017. The Presentation focused on the real property appraiser profession and the appraiser qualifications criteria. The Director felt that the students were engaged in the presentation and asked very well thought out and detailed questions at the conclusion of the presentation. Director Kohtz also stated that one current trainee real property appraiser was among the attendees. The Board thanked the Director for his report.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER

a. Fall 2017 Edition of The Nebraska Appraiser

Director Kohtz presented the fall edition of The Nebraska Appraiser to the Board for consideration, and asked that the December meeting date shown on page one be amended to reflect the Board's decision to change the meeting to December 20, 2017. With no further discussion, Board Member Hynek moved to approve the fall edition of The Nebraska Appraiser as amended. The motion was seconded by Mustoe, and carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

5. APPRAISAL SUBCOMMITTEE: No discussion.

6. APPRAISAL FOUNDATION

a. Appraiser Qualifications Board

i. AQB Fourth Exposure Draft of Proposed Changes to the Real Property Appraiser Qualification Criteria

Director Kohtz presented the AQB's Fourth Exposure Draft of Proposed Changes to the Real Property Appraiser Qualification Criteria to the Board for review. The Director guided the Board through the exposure draft, and highlighted the proposed reduction to the education requirements for the licensed and certified residential level, the proposed reduction in the number of hours of experience required for all levels, and the proposed streamlined path from the licensed residential to the certified residential level. There was no further discussion.

ii. AQB Public Meeting: February 1, 2018 – Washington, D.C.

Director Kohtz brought attention to the AQB's next meeting on February 1, 2018 in Washington, D.C. There was no further discussion.

b. Appraisal Standards Board

i. ASB Q&A: October 2017

Director Kohtz presented the ASB's October 2017 Q&A's to the Board for review. The Director informed the Board that the only question pertains to the analyzation and reporting of changes related to ownership interests of a property, as well as actual property transfer. The ASB responded that appraisers are required to analyze and report prior sales of the property being appraised, not changes related to the partnership or corporation that owns a property. There was no further discussion.

ii. ASB October 13, 2017 Public Meeting Summary

Director Kohtz presented the ASB's October 13, 2017 public meeting summary to the Board for review. There was no further discussion.

7. IN THE NEWS: No discussion.

Break from 10:52 a.m. to 11:32 a.m.

Special Assistant Attorney General William G. Blake appeared before the Board at 11:32 a.m. Mr. Blake brought attention to the James Zalewski appearance earlier during the meeting and asked the Board if it had any intention of reconsidering the action taken by the Board for 15-18. Chairperson Langemeier asked if any board members had a motion. Board Member Mustoe moved to reconsider the action taken by the Board at the October meeting for 15-18. The motion was seconded by McCormick, and carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

Board Member Hynek moved that the Board go into executive session for the purpose of reviewing applicants for credentialing; applicants for appraisal management company registration; investigations; pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation; and employee performance evaluation. A closed session is clearly necessary to prevent needless injury to the reputation of those involved. Chairperson Langemeier asked for a second. Board Member Mustoe seconded the motion. The time on the meeting clock was 11:37 a.m. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

Board Member Hynek moved to come out of executive session at 11:56 a.m. Board Member Mustoe seconded the motion. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

L. EDUCATION

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

Mid-West Appraiser Association

Enhancing Professionalism in Appraisal Practice (2171453.08) / 7 Hours – *Approve*

Lynne Heiden - *Approve*

Sales Comparison Methodology (2171454.08) / 7 Hours – *Approve*

Lynne Heiden - *Approve*

Seconded by Mustoe. Chairperson Langemeier called for the vote. The motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

No action was taken by the Board for the Mid-West Appraiser Association new continuing education activity named Appraisal Report Writing (2171201.08) or instructor.

C. CONSIDERATION OF APPLICANTS FOR CREDENTIAL AS NEBRASKA REAL PROPERTY APPRAISER

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

T17021 / Approved as Trainee Real Property Appraiser.

T17022 / Approved as Trainee Real Property Appraiser.

T17023 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check. Send advisory letter.

SA-T2016015 / Approve as Supervisory Appraiser.

SA-T2017016 / Approve as Supervisory Appraiser.

SA-T2017018A / Approve as Supervisory Appraiser.

SA-T2017018B / Approve as Supervisory Appraiser.

SA-T17021 / Approve as Supervisory Appraiser.

SA-T17022 / Approve as Supervisory Appraiser.

CR17008R / Approve as a Certified Residential Real Property Appraiser

Board Member McCormick seconded the motion. Motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

Item 1 / Approve renewal of registration as an appraisal management company.

Board Member Mustoe seconded the motion. Motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Hynek moved to take the following enforcement actions:

17-05 / Ongoing

17-04 / Hold

Board Member McCormick seconded the motion. Motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

15-18: Board Member Hynek moved that this matter was before the Nebraska Real Property Appraiser Board on November 16, 2017 on the request of Respondent for reconsideration of the Board's disciplinary order herein of October 19, 2017. Respondent was represented by attorney, James C. Zalewski. Motion was made and seconded by board members who had voted in favor of the October 19, 2017 order. Motion to reconsider was approved by vote of the Board. Upon reconsideration, the costs incurred for an administrative hearing in this matter, including fees of counsel, court reporters, investigators, and witnesses, were considered and compared with the costs incurred and taxed against respondents in other disciplinary matters. The Board also considered the level of discipline imposed by the October 19, 2017 order. The costs incurred by the Board in this action for the administrative hearing total \$45,226.75, and the total agency costs were \$50,694.54, including fees of counsel, court reporters, investigators and witnesses, and hearing officer, all as accurately and truly stated on attached comparing the costs incurred and imposed in this proceeding with the costs incurred and imposed in other disciplinary proceedings, and the discipline imposed against Respondent herein with the discipline imposed in other proceedings and the level of seriousness of the violations found in this matter, the Board Finds and Orders that Item 4 under the discipline issued by the Board in the October 19, 2017 Order of Discipline shall be amended as follows: Respondent shall pay \$24,000.00 to the Board for costs associated with the investigation. This amount may be paid in equal quarterly installments of \$3,000.00 by the 1st of April, July, October in 2018, the 1st of January, April, July, October in 2019, and the 1st of January in 2020. All other discipline stand as originally shown in the October 19, 2017 order. The motion was seconded by Mustoe, and carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

Inquiry I17-02 was discussed.

The Board discussed the response received for Inquiry I17-03.

The Board discussed the response received for Inquiry I17-04.

Board Member Hynek moved to take the following action for other executive session items:

I17-02 / Close

I17-03 / Open investigation 17-07 and notify Respondent of intent to rescind approval of education activity.

I17-04 / Open investigation 17-08.

Board Member Mustoe seconded the motion. Motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye.

S. ADJOURNMENT

Board Member Hynek moved to adjourn the meeting. Board Member Mustoe seconded the motion. Motion carried with Hynek, McCormick, Mustoe, and Langemeier voting aye. At 12:02 p.m. Chairperson Langemeier adjourned the November 16, 2017 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on December 4, 2017, in compliance with Nebraska Revised Statute § 84-1413 (5).