

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

March 15, 2018 Meeting Minutes

Swearing in of new Board Member Thomas Luhrs took place prior to the start of the meeting.

A. OPENING

Chairperson Ben Hynek called to order the March 15, 2018 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 Hynek 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 March 12, 2018 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 Benjamin Hynek, Christopher Mustoe, Gary McCormick, David Hartman, and Thomas Luhrs 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 Hynek 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 Mustoe moved to adopt the agenda as printed. Board Member McCormick seconded the motion. With no further discussion, the motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

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

Board Member Mustoe 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 Hynek asked for a second. Board Member Hartman seconded the motion. The time on the meeting clock was 9:02 a.m. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 9:31 a.m. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Hynek welcomed the guest to the meeting and declared, "Less is more, so here we go." Roger Morrissey was the only member of the general public in attendance.

H. BOARD MEETING MINUTES

1. APPROVAL OF FEBRUARY 15, 2018 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the February 15, 2018 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Hartman moved to adopt the February 15, 2018 meeting minutes as presented. Board Member Mustoe seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of March 15, 2018, and 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 February 28, 2018, and informed the Board that temporary permit issuances are currently outpacing the previous five years. The Director then 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 March 15, 2018, and informed the Board that the upward trajectory continues regarding the number registered supervisory appraisers. The Director then 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 March 15, 2018, and indicated that the drop is due to a few non-renewals. The Director indicated that a couple of these are planning to renew their registration, so the count should move back up in the near future. Director Kohtz then asked for any questions or comments. There was no further discussion.

J. FINANCIAL REPORT AND CONSIDERATIONS – MARCH 2018

1. APPROVAL OF FEBRUARY RECEIPTS AND EXPENDITURES

The receipts and expenditures for February were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz brought attention to SOS temporary services in the amount of \$660.83 for appraiser credential renewal processing assistance, and informed the Board that this is the end of this expense for the current fiscal year. \$6,931.00 was budgeted for the fiscal year and the final expense was \$4,373.49, which is quite a bit below budget. As of the end of February, expenses amount to 47.67 percent of the budgeted expenditures for the fiscal year; 66.58 percent of the fiscal year has passed. Director Kohtz then pointed the Board to the revenues, and informed the Board that the appraiser revenues are short for the month; however, there are a few new credentials being issued, which should show up in the March Budget Status Report. The Director finished by stating that AMC renewal revenues are right on pace with projections. 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 February, and informed the Board that “Greenfiled Advisors” under the “Payee/Explanation” column pertains to a refund for a submitted appraiser renewal application that was not completed. 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 \$26,741.06 in expenditures and \$17,117.49 in revenues were reported.

Board Member Mustoe moved to accept and file the February 2018 financial reports for audit. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

2. PER DIEMS

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

K. GENERAL PUBLIC COMMENTS

Chairperson Hynek asked for any public comments. With no comments, the Chair proceeded to Education.

L. EDUCATION

A discussion took place regarding the number of hours of approval for the 2018 Commercial Real Estate Summit submitted by PlanIt Omaha. CEO Krieger informed the Board that staff has concluded that four to five hours of the conference is appraiser related learning. CEO Krieger continued that staff has assigned no hours to this activity due to the uncertainty surrounding the content. Board Member Mustoe indicated that this conference is strongly commercial real estate oriented, and that many of the breakout sessions include appraisal content. Board Member Mustoe ended by saying, “I don’t think you can give enough hours to it.” Chairperson Hynek indicated that seven hours is appropriate. The Chairperson granted public member Roger Morrissey permission to speak. Mr. Morrissey informed the Board that he has been involved in planning, and considers it a great opportunity for appraisers. The Board agreed that seven hours should be awarded for this activity.

Board Member Mustoe moved to take the following actions for education activities and instructors as listed:

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS

The Moore Group

Real Estate Finance, Statistics, and Valuation Modeling (1181401.04) / 15 Hours – *Approve*
Bradford Moore - *Approve*

Trans-American Institute of Professional Studies

2018/2019 15-Hour National USPAP Course (1181101.09) / 15 Hours – *Approve*
Lynne Heiden - *Approve*

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Trans-American Institute of Professional Studies

2018/2019 7-Hour National USPAP Update Course (2181101.09) / 7 Hours – *Approve*
Lynne Heiden - *Approve*

Residential Appraisal Review and USPAP Compliance Course (2181405.09) / 7 Hours – *Approve*
Lynne Heiden - *Approve*

OREP Education Network

How to Raise Appraisal Quality and Minimize Risk (2182406.19) / 7 Hours – *Approve*
Timothy Andersen - *Approve*

Identifying and Correcting Appraisal Failures (2182407.19) / 7 Hours – *Approve*
Richard Hagar - *Approve*

Hondros College of Business

2018-2019 7-Hour National USPAP Course (2182408.34) / 7 Hours – *Deny*
Timothy Andersen – *No action*

Appraisal Institute

2018-2019 Online 15-Hour National USPAP Course (2182409.02) / 14 Hours – *Deny*
Thomas Kirby – *No action*

Condominium Co-ops and PUDS (2182410.02) / 7 Hours – *Deny*
Maureen Sweeney – *No action*

Online Forecasting Revenue (2182411.02) / 7 Hours – *Approve*
Kenneth Foltz - *Approve*

Evaluating Commercial Leases: The Tenant and the Terms Both Matter (2182412.02) /
7 Hours – *Approve*
Gary DeWeese - *Approve*

McKissock, LLC

Live Webinar: Be Compliant and Competitive with Restricted Appraisal Reports (2182413.03) /
3 Hours – *Approve*
Dan Bradley, Josh Walitt, Robert Frazier, Robert McClelland, Steve Craddock, Steve Maher -
Approve

PlanIt Omaha

2018 Commercial Real Estate Summit (2181414.14) / 7 Hours - *Approve*
Jerry Slusky - *Approve*

Seconded by Board Member Hartman. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

M. UNFINISHED BUSINESS

1. ABSTRACTERS BOARD REQUEST FOR NRPAB TO PROVIDE ADMINISTRATIVE SERVICES

Director Kohtz informed the Board that the requested information has been received from the Abstracters Board, and he will have a report for the Board at the April meeting.

2. REAL ESTATE COMMISSION DATABASE INQUIRY

Director Kohtz informed the Board that there is no update. Chairperson Hynek asked if there is a need to keep this item on the agenda. Director Kohtz responded that the Board asked that he look at the Real Estate Commission's database prototype when completed, but he has not heard anything from Director Lemon to date. Chairperson Hynek asked what the feasibility is that the Board could use the Real Estate Commission's database, or purchase it and make adjustments to fit the Board's information. Director Kohtz said that the possibility is very small. The Director then informed the Board that he has prepared a database report that covers the history, the options, and effectiveness. After discussing the contents of the report with Chairperson Hynek, both agreed that the report should be held for the 2018 strategic planning meeting. Director Kohtz finished by reminding the Board that the benefits of continuing to work with CIO outweighs the negatives, but CIO also has to show that progress is being made, which is not really happening right now. On the other side, contracting for database services is extremely expensive. For example, the Real Estate Commission's database cost \$300,000.00 to construct, and will have annual fees and costs anywhere from \$30,000.00 to \$70,000.00. Chairperson Hynek asked the Board if it had any issues with removing this item from the agenda and revisiting the database again at strategic planning. There was no opposition expressed by the other board members. Board Member Mustoe moved to remove this item from the agenda and revisit the database progress at the strategic planning meeting. The motion was seconded by McCormick, and carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

N. NEW BUSINESS: No discussion.

O. LEGISLATIVE REPORT AND BUSINESS

1. CURRENT LEGISLATION

Director Kohtz presented the legislative report of the current session to the Board for review.

The Director informed the Board that he will provide a summary of the critical bills, but will not discuss the less critical bills unless a board member requests discussion.

LB17 – The Director informed the Board that LB17 has been placed on Final Reading.

LB299 – Chairperson Hynek granted public member Roger Morrissey permission to speak. Mr. Morrissey expressed concern over the Office of Supervision, and its ability to overturn board actions. Director Kohtz responded that the Office of Supervision was eliminated when AM1665 was adopted. This amendment significantly changed the language and removed this proposed office. Mr. Morrissey thanked the Board for the explanation. The Director informed the Board that AM2349 has since been adopted. AM2349 overrides the bill and the previously adopted amendment. This amendment once again requires that regulations be construed and applied to increase economic opportunities, promote competition, and encourage innovation, and be the least restrictive means of achieving the regulation's ends. The criminal history language found in AM1665 is greatly reduced, but still allows an individual with a criminal history to petition the appropriate occupational board, prior to obtaining the necessary education for the occupation, for a determination as to whether their criminal history would disqualify them from obtaining the applicable license. The burden of carrying out this language is primarily placed the legislative committee that oversees the statutory authority of that occupational agency. Director Kohtz reiterated that the Board is already doing the things this bill would require.

LB741 – Director Kohtz informed the Board that LB741 has received Speaker Priority.

LB944 – This bill makes adjustments to appropriations and reappropriations for state operations, aid and construction programs, provides for transfers, and modifies intent language and earmarks accompanying appropriations approved by the 105th Legislature, First Session, for the current fiscal year ending June 30, 2018 and the next fiscal year ending June 30, 2019. Director Kohtz informed the Board that there has been significant movement during the past month, but there still has been no impact on the Board's budget. There was no further discussion.

Director Kohtz finished the legislative report by asking if any members had any other bills that they would like to discuss. There was no further discussion.

2. 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

a. 18-02: Equivalency to Bachelor's Degree or Higher in Real Estate for Program Approved by the Appraiser Qualifications Board as Required Core Curriculum

Director Kohtz presented proposed Guidance Document 18-02 titled "Equivalency to Bachelor's Degree or Higher in Real Estate for Program Approved by the Appraiser Qualifications Board as Required Core" to the Board for consideration. The Director informed the Board that the intent of the guidance document is to provide direction as to how the Board will consider an applicant that has completed a program approved by the AQB for qualifying education, but obtained a bachelor's degree or higher from another institution. Director Kohtz also informed the Board that AAG Hart has reviewed the proposed guidance document, and had no recommendations for consideration. Board Member Mustoe moved to approve Guidance Document 18-02 as presented. The motion was seconded by Hartman, and carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

2. INTERNAL PROCEDURAL DOCUMENT: No discussion.

3. FORMS AND PROCEDURES: No discussion.

Q. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

2. CONFERENCES/EDUCATION

a. Spring AARO Conference; May 4-6, 2018

Director Kohtz asked for interest in attending the Spring AARO Conference. Director Kohtz indicated that he will be attending. Chairperson Hynek asked what the cost of attendance is. Director Kohtz responded that it is around \$2,000.00 per attendee when conference registration, costs of travel, hotel, and meals are added up. Chairperson Hynek asked the Board if attendance is worth the cost. Board Member Mustoe asked the Director if the conference is informative. Director Kohtz indicated that the fall conference is much more informative; the spring conference really depends on how much activity is taking place at the federal level at the time of the conference. Board Member Mustoe indicated that it is probably important that the Director attend to stay informed. Board Member Mustoe also added that one never knows ahead of time what becomes useful, or if one can be useful to someone else. Board Member Mustoe made a motion to approve Director Kohtz for attendance at the Spring AARO Conference. The motion was seconded by McCormick, and carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE

a. ASC Policy Statements – Revised March 2018

Director Kohtz presented the revised ASC Policy Statements for the Board to review. The Director informed the Board that this is the final version of what was presented in October of 2017. The revised policy statements include minor changes to the existing policy statements, and the introduction of three new policy statements 8 through 11 for the AMC program. Director Kohtz continued, the new policy statements are similar to the AMC Final Rule language, and it doesn't appear that the Board will need to make any additional statutory or rule changes due to the revised policy statements. The Director also indicated that Policy Statements 8 through 10 are duplicates of existing Policy Statements 1, 3, and 7. There was no further discussion.

b. ASC November 13, 2017 Meeting Minutes

Director Kohtz presented the Appraisal Subcommittee's November 13, 2017 meeting minutes to the Board for review. The Director informed the Board that he had no specific comments. There was no further discussion.

c. ASC Meeting; May 9, 2018 – Washington, D.C.

Director Kohtz informed the Board that the next ASC meeting will be on May 9, 2018. There was no further discussion.

d. ASC Special Meeting; April 12, 2018 – Washington, D.C.

Director Kohtz informed the Board that the ASC will hold a special meeting on April 12, 2018. The purpose of the meeting is to consider the temporary waiver request from TriStar Bank of Dickson, Tennessee. There was no further discussion.

e. ASC Notice of Received Request for a Temporary Waiver

Director Kohtz presented the Appraisal Subcommittee's "Notice of Received Request for a Temporary Waiver" published in the Federal Registry on March 9, 2018. TriStar Bank of Dickson, Tennessee requested a temporary waiver of appraiser certification or licensing requirements pursuant to FIRREA. Comments must be submitted before April 9, 2018. The Director informed the Board that the TriStar Bank request is suspect, because the organization cites the lack of certified general appraisers in the Nashville, Tennessee metropolitan area. Director Kohtz indicated that he finds it hard to believe that Nashville is short of certified general appraisers. The Director finished by saying that whatever decision is made by the ASC, it will set a precedence for the future. Board Member Mustoe commented that temporary waivers may be dangerous.

6. THE APPRAISAL FOUNDATION

a. TAF Board of Trustees Meeting; May 17-19, 2018 – Cleveland, OH

Director Kohtz informed the Board that the next Board of Trustees of The Appraisal Foundation's meeting will be on May 17-19, 2018. There was no further discussion.

b. Appraiser Qualifications Board

i. AQB February 1, 2018 Public Meeting Summary

Director Kohtz presented the Appraiser Qualification Board's February 1, 2018 meeting summary to the Board for review. The Director informed the Board that the summary mentions that a new Guide Note 10 regarding alternatives to college degree requirements will be issued in the future. Director Kohtz indicated that the Board's issue must have had an impact on the AQB. There was no further discussion.

ii. AQB Public Meeting; May 4, 2018 – Seattle, WA

Director Kohtz informed the Board that the next AQB public meeting will be on May 4, 2018. There was no further discussion.

c. Appraisal Standards Board

i. ASB Public Meeting; Las Vegas, NV – April 20, 2018

Director Kohtz informed the Board that the next ASB public meeting will be on April 20, 2018. There was no further discussion.

7. IN THE NEWS

Break from 10:15 a.m. to 10:26 a.m.

Board Member Mustoe 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 Hynek asked for a second. Board Member Hartman seconded the motion. The time on the meeting clock was 10:26 a.m. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 11:41 a.m. Board Member Hartman seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

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

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

T18002 / 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-T2016011 / Approve as Supervisory Appraiser.

SA-T2016013 / Approve as Supervisory Appraiser.

SA-T2017015 / Approve as Supervisory Appraiser.

CR18001R / Requirements for credentialing as a Certified Residential Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG18004R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG18005R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG18001 / Education and experience accepted; approve to sit for exam, and authorize Director to issue credential as a Certified General Real Property Appraiser upon successful completion of exam.

CG16021 / Deny.

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: None

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Mustoe moved to take the following enforcement actions:

17-05 / 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)(5)(12)(15)(16). Notify Nebraska Department of Banking of findings.

17-07 / Dismiss without prejudice; send advisory letter.

17-04 / Hold

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

Board Member Mustoe moved to dismiss 16-02 without prejudice. Board Member McCormick seconded the motion. Motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye. Hartman abstained.

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed personnel matters. No action was taken.

R. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member Hartman seconded the motion. Motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye. At 11:44 a.m. Chairperson Hynek adjourned the March 15, 2018 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on March 22, 2018, in compliance with Nebraska Revised Statute § 84-1413 (5).