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

January 16, 2020 Meeting Minutes

A. OPENING

Chairperson Ben Hynek called to order the January 16, 2020 meeting of the Nebraska Real Property Appraiser Board at 9:01 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 on the State of Nebraska Public Calendar found at www.nebraska.gov on January 6, 2020. 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, 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 of Lincoln, Nebraska, Thomas Luhrs of Imperial, Nebraska, Christopher Mustoe of Omaha, Nebraska, and Wade Walkenhorst of Lincoln, Nebraska were present. Also present were Director Tyler Kohtz, Business and Licensing Specialist Allison Nespor, and Administrative Specialist Katja Duerig, who are all headquartered in Lincoln, Nebraska. Gary McCormick of North Platte, Nebraska, was absent and excused.

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 Luhrs seconded the motion. With no further discussion, the motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

C. ELECTION OF OFFICERS

Board Member Mustoe nominated Ben Hynek as Chairperson of the Board for 2020. Board Member Luhrs seconded the nomination. With no further discussion, Hynek was elected with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

Board Member Luhrs nominated Chris Mustoe as Vice-chairperson of the Board for 2020. Board Member Walkenhorst seconded the nomination. With no further discussion, Mustoe was elected with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

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. Board Member Walkenhorst seconded the motion. The time on the meeting clock was 9:04 a.m. The motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 9:30 a.m. Board Member Luhrs seconded the motion. The motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

H. WELCOME AND CHAIR'S REMARKS

Chairperson Hynek greeted the public and said, "As always, less is more." Roger Morrissey was the only member of the public present.

I. BOARD MEETING MINUTES

1. APPROVAL OF DECEMBER 19, 2019 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the December 19, 2019 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Mustoe moved to adopt the December 19, 2019 meeting minutes as presented. Board Member Luhrs seconded the motion. The motion carried with Mustoe, Luhrs, and Walkenhorst voting aye. Board Member Hynek abstained.

J. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of January 16, 2020. The Director reported that the decline of appraisers credentialed through education, experience, and examination (not including Trainee) is leveling, while the number of appraisers credentialed through reciprocity continues to climb from year to year. The Director stated that, overall, the total number of credentialed appraisers in the state is stable. Director Kohtz reported that the number of licensed residential real property appraisers is steady after a large drop in 2013-14. According to the Director, the number of licensed residential real property appraiser renewals greatly exceeded projections this year. Director Kohtz moved his attention to the certified general classification, and remarked that the number of renewals for the certified general real property appraiser had not yet met projections; and are not likely to. Board Member Mustoe reasoned that certified general appraisers credentialed through reciprocity may not yet know how much work to expect in the State of Nebraska this year. The Director acknowledged Board Member Mustoe's comment, and mentioned that the numbers are still surprising considering the great year last year after the renewal requirements were reduced. Director Kohtz finished by informing the Board that the number of renewals for the trainee classification will not meet projections, and indicated that the number of trainee renewals are very inconsistent from year to year. BLS Nespor reported that there are thirty appraisers who have not reported their intent to renew or not; ten appraisers have reported that they planned not to renew. Board Member Mustoe brought attention to the use of the inactive status, and a discussion took place with BLS Nespor about appraiser inactive status. Director Kohtz asked for any questions or comments. There was no further discussion.

2. TEMPORARY CREDENTIAL REPORT

Director Kohtz presented three charts outlining the number of temporary credentials issued as of December 31, 2019. The Director reported that 207 temporary credentials were issued in 2019, a record number for the Board. Board Member Mustoe commented that the increase in temporary credentials could be due to former reciprocal credential holders who chose not to renew their permanent credentials in the past because of more stringent renewal requirements. Director Kohtz 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 January 16, 2020. The Director reported a drop in the number of active registered supervisory appraisers due to supervisory appraiser retirements and trainee credential nonrenewals. Director Kohtz added that the Board has not tracked this data long enough to have a good understanding of trend patterns, 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 January 16, 2020. The Director reported that the figures exceed the Board's projections for registered AMCs in Nebraska after the passing of the AMC Final Rule. The Director asked for any questions or comments. There was no further discussion.

5. CREDENTIAL RENEWAL REPORT

Director Kohtz presented two charts outlining the credential renewal progress through January 15, 2020. The Director reiterated that the certified general figures are below projections, but stated that the licensed and certified residential classifications have exceeded projections. According to the Director, once all pending applications are processed, 90% of Nebraska credentialed appraisers due for renewal will have renewed this year; the projected renewal rate is 94%. Director Kohtz finished by declaring that although the target will not be reached, it would not be unreasonable to expect the renewal rate to hit 92% by the end of June. There was no further discussion.

K. FINANCIAL REPORT AND CONSIDERATIONS – JANUARY 2020

1. APPROVAL OF DECEMBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for December were presented to the Board in the Budget Status Report. Director Kohtz informed the Board that he had no specific comments. Director Kohtz reported, as of the end of December, expenses amount to 44.14 percent of the budgeted expenditures for the fiscal year; 50.41 percent of the fiscal year has passed. Revenues are currently at 72.47 percent of the projected revenues for the fiscal year. The Director asked for any questions or comments. There was no further discussion.

Director Kohtz then brought attention to the General Ledger for December. The Director noted a \$16.80 entry under Awards Expense for, "CORRECTIONAL SERVICES, DEPARTM." He explained that the Nebraska Department of Correctional Services created the plaque given to Board Member McCormick for his service. The Director then brought attention to a \$0.90 entry under Other Contractual Services for, "RECYCLING ENTERPRISES OF NE IN." This is a regular expense for the shredding of documents that have reached the end of their retention schedule, said the Director. Director Kohtz asked for any questions or comments. There was no further discussion.

Director Kohtz 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 \$32,486.59 in expenditures and \$66,301.74 in revenues were reported. The Director then remarked that the cash balance for the AMC fund is \$262,779.98, the Appraiser Fund is \$354,055.88, and the overall cash balance for both funds is \$616,835.86. Director Kohtz asked for any questions related to the graphs. There was no further discussion.

Board Member Luhrs moved to accept and file the December 2019 financial reports for audit. Board Member Mustoe seconded the motion. The motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

2. PER DIEMS

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

L. GENERAL PUBLIC COMMENTS

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

M. CONSIDERATION OF EDUCATION-INSTRUCTOR REQUESTS

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

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS ASFMRA

7 Hour National USPAP Course (A114) (2201101.01) / 7 Hours – Jeffrey Berg

Key Issues of Grain Elevator Valuation (2201402.01) / 8 Hours – Jeffrey Berg

Hondros College

2020-2021 7-Hr Equivalent USPAP Update Course (2202101.34) / 7 Hours – Elizabeth Sigg

Appraisal Institute

2020-2021 Online 7-Hour Equivalent USPAP Update Course (2202101.02) / 7 Hours – Craig Harrington

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS McKissock

2020-2021 15-Hr National USPAP Course (1202101.03) / 15 Hours – Daniel Bradley

Hondros College

2020-2021 15-Hr Equivalent USPAP Course (1202101.34) / 15 Hours – Elizabeth Sigg

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

OTHER EDUCATION MATTERS

Board Member Luhrs moved to rescind the following education activities as listed:

ASFMRA

Sales Comparison Approach for General Appraisers (1111401.01) / 30 Hours

General Market Analysis and Highest and Best Use (1131403.01) / 30 Hours

The Moore Group

General Sales Comparison Approach (1131401.04) / 30 Hours

General Site Valuation and Cost Approach (1131402.04) / 30 Hours

Appraisal Institute

Apartment Appraisal: Concepts & Applications (1131404.02) / 15 Hours

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

N. UNFINISHED BUSINESS

1. ONLINE APPRAISER RENEWAL APPLICATION SUBMISSION PORTAL WITH ELECTRONIC PAYMENT

Director Kohtz reported that work on the Online Appraiser Renewal Application Submission Portal with Electronic Payment is occurring behind the scenes. The Office of the Chief Information Officer is working to develop a secure method to store and send files containing sensitive payment information to US Bank. Once that work is complete, said the Director, more testing will be done to ensure that files are transmitted to US Bank in a secure manner, and that the data is accurate. Director Kohtz estimated that there are two months of testing left before the system goes live. Chairperson Hynek expressed his continued surprise that there is no standard for state agencies. Director Kohtz agreed that the process had been challenging and nuanced, but he acknowledged that each agency has their own specifications for electronic systems. The Director added that many agencies want the ability to accept credit card payments, but that requires a level of data security compliance that our agency is not properly equipped to handle. Board Member Mustoe commented that one can use a credit card to pay for all different types of licenses in the State of Colorado, but all those licenses are under one agency. Director Kohtz asked for any questions or comments. There was no further discussion.

2. OPEN 3RD CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION

Director Kohtz reported that Bonnie Downing, who works for Farm Credit Services in North Platte, has been appointed to the open position, and she will be sworn in before the February meeting. The Director also informed the Board that Ms. Downing will meet with staff on February19, 2020 for her board member orientation meeting. There was no further discussion.

O. NEW BUSINESS: No discussion.

P. LEGISLATIVE REPORT AND BUSINESS

1. TITLE 298 UPDATE

Director Kohtz presented the documents titled "Summary of Proposed Changes to Title 298 of the Nebraska Administrative Code" and "Title 298 Public Hearing Legislative Draft" to the Board for consideration. The Director informed the Board that all the preliminary work has been completed and requested that the Board set the hearing for March 19, 2020 at 11 a.m., which is the same day as the regularly scheduled March meeting. Director Kohtz indicated that this will give him enough time to make the proper public notice and prepare all documents required to be delivered to the Secretary of State, the Governor's Policy and Research Office, the Attorney General's Office, and the Nebraska Legislature. With no further discussion, Board Member Walkenhorst moved to approve the Title 298 Public Hearing Legislative Draft as presented and set the hearing date for March 19, 2020 at 11:00 a.m. Board Member Luhrs seconded the motion. The motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

2. CURRENT LEGISLATION

Director Kohtz presented the first 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. LB21 through LB717 are carryover bills from the previous session, and LB775 through LB889 are bills introduced during the current session. Discussion took place for the following bills:

LB381 – Director Kohtz informed the Board that this bill changes the expense reimbursement provisions for state officers and agencies. It proposes that State employees and board members in travel status shall be reimbursed at a percentage of the General Services Administration per diem rate, rather than based on self-reporting expenses. Board Member Mustoe asked whether this bill would change the board members' process for reporting vehicle mileage for travel to meetings. Director Kohtz confirmed that this only affects meals and incidentals. The Director added that LB381 advanced to enrollment and review.

LB775 – The Director indicated that this bill was introduced on the Board's behalf to update the Real Property Appraiser Act for compliance with Title XI, USPAP, and the ASC Policy Statements, which include changes to date references and definitions. LB775 also includes minor changes to address administration of the Act. The hearing for LB775 will take place before the Banking, Commerce, and Insurance Committee on January 27, 2020. Director Kohtz stated that he will testify on behalf of the Board.

LB790 – Director Kohtz reported that LB790 adds political subdivisions of another state to the groups for which an exception may be granted by the Director of Administrative services for sole source contracts, emergency contracts, and contracts for services when prices have been established by GSA.

LB794 – Director Kohtz declared that this bill allows the amendment of local zoning codes and ordinances for cities of specified size to permit varied types of affordable housing.

LB801 – According to Director Kohtz, LB801 removes the requirement that a map showing the area to be declared extremely blighted, or information on where to find such map, be included with the notice for a public hearing before a planning commission.

LB844 – Director Kohtz informed the Board that LB844 eliminates certain notice requirements, provides an operative date, and repeals original sections relating to construction liens. The hearing before the Judiciary Committee will take place on January 22, 2020.

LB857 – The Director indicated that LB857 requires each state agency to perform a review of its rules and regulations on a prescribed schedule and provide a report electronically to the Clerk of the Legislature on or before December 31st of the year prescribed in the schedule. Director Kohtz expressed doubt for the success of this bill as similar reporting requirements are already in place.

LB888 – Director Kohtz reported that LB888 expands the authority of the Risk Manager of the State Claims Board as it relates to considering, ascertaining, adjusting, compromising, settling, determining, and allowing any tort claim.

LB889 – Director Kohtz declared that LB889 clarifies on whom a summons shall be served concerning an appeal to district court of an action under the Administrative Procedure Act.

Director Kohtz asked for any questions or comments concerning the legislative report. The Director requested that if there is a bill not included on this list that may be of importance to the Board, to contact him to have it added to the list. Chairperson Hynek thanked the Director for his report. There was no further discussion.

3. OTHER LEGISLATIVE MATTERS: No discussion.

Q. ADMINISTRATIVE BUSINESS

- 1. GUIDANCE DOCUMENTS: No discussion.
- 2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. APPRAISER FORMS AND PROCEDURES

a. 2020-2021 NRPAB USPAP Review Report Form

Director Kohtz presented the 2020-2021 NRPAB USPAP Review Report Form to the Board for consideration. The Director noted that there were no significant changes to the document, other than the changes required to bring the form into compliance with the latest edition of USPAP. Public Member Roger Morrissey requested permission to speak. Permission was granted by Chairperson Hynek. Mr. Morrissey asked why the form indicates USPAP Standard 3, but omits mention of Standard 4. A discussion took place on how both Standards 3 and 4 apply to the document. AS Duerig commented that the form itself represents Standard 4, as it solicits all information that is required to be in a USPAP-compliant review report under Standard 3. Board Member Mustoe suggested that all mention of Standard 3 be omitted from the form as it is superfluous and confusing. The other board members agreed. Chairperson Hynek pointed out that the effective date in the footer read January 16, 2019, and remarked that this should be changed to 2020. The board members agreed with this recommendation. Director Kohtz clarified that review appraisers are not required to use the form, but that it is available if wanted. Mr. Morrissey thanked the Board. With no further discussion, Board Member Mustoe moved to approve the 2020-2021 NRPAB USPAP Review Report Form as amended. Board Member Luhrs seconded the motion. The motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

R. OTHER BUSINESS

- 1. BOARD MEETINGS: No discussion.
- 2. CONFERENCES/EDUCATION: No discussion.

3. MEMOS FROM THE BOARD

a. The Nebraska Real Property Appraiser Board Proposed Changes to Title 298 of the Nebraska Administrative Code

Director Kohtz presented the Board memo titled, "The Nebraska Real Property Appraiser Board Proposed Changes to Title 298 of the Nebraska Administrative Code" to the Board for consideration. The Director reported that the memo was drafted to bring public attention to the Title 298 administrative hearing date, and offer the public and stakeholders the opportunity to provide written comments to the Board for consideration at the hearing. Director Kohtz also informed the Board that the memo will not be sent through the Appraiser Listserv until the public notice for the hearing is published and indicated that this would be in a few weeks. There was no further discussion. Board Member Walkenhorst moved to approve the Board memo titled, "The Nebraska Real Property Appraiser Board Proposed Changes to Title 298 of the Nebraska Administrative Code" as presented. Board Member Luhrs seconded the motion. The motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE

a. ASC Meeting; May 13, 2020 – Washington, D.C.

Director Kohtz informed the Board that the next ASC meeting will be held on May 13, 2020, in Washington, D.C. There was no discussion.

b. ASC Grants Handbook

Director Kohtz presented the ASC Grants Handbook to the Board for review. The Director reported that the Appraisal Subcommittee has been working on developing a grant program for some time. Director Kohtz indicated that, at this point, he is unsure if the program would offer any benefit for the Board. The Director continued by informing the Board that the ASC plans to offer two types of grants; one with a defined scope and funding, and another with an open scope and undefined funding. Director Kohtz reported that the ASC will publish a notice for grant availability when grants are available. An agency must complete the application process to be considered. If the agency has not been awarded a grant by the ASC in the past, the ASC will review the agency's financial systems for compliance with federal requirements. Director Kohtz expressed his intention to pay attention to the program and look for grant notices that may benefit the Board.

Public Member Roger Morrissey requested permission to speak. Chairperson Hynek granted Mr. Morrissey permission to address the Board. Mr. Morrissey remarked that it would be interesting to find out if the grant money could go to a third party on behalf of a state appraiser regulatory agency, for example, a university conducting research in real estate appraisal. Director Kohtz responded that the ASC is looking to do just this, but it will take a statutory change for them to have the authority to award grant money to a college or university. The Director reported that the ASC's grant program includes both defined and open projects. If legislation is passed, the Director noted, the University of Nebraska at Omaha's Real Estate program could be eligible for grant funding. Mr. Morrissey expressed his interest in this information, and thanked the Board for the opportunity to speak. There was no further discussion.

6. THE APPRAISAL FOUNDATION

a. Webinar USPAP-Compliant Sample Evaluation and Updates; January 16, 2020 – 1:00 p.m.

Director Kohtz informed the Board that The Appraisal Foundation planned to host a webinar called "USPAP-Compliant Sample Evaluation and Updates" on January 16, 2020, at 1:00 p.m. There was no discussion.

b. Level 1 of Investigator Training; April 27-29, 2020 – Scottsdale, AZ

Director Kohtz brought attention to the Level I Investigator Training taking place April 27th through 29th in Scottsdale, Arizona, and asked for any interest in attending. There was no discussion.

c. First Exposure Draft of a Proposed Change to the Real Property Appraiser Qualification Criteria – Licensed Residential Scope of Practice

Director Kohtz presented The Appraisal Foundation publication, "First Exposure Draft of a Proposed Change to the Real Property Appraiser Qualification Criteria – Licensed Residential Scope of Practice" to the Board for review. The Director reported that the "\$250,000" is stricken and replaced with "\$400,000" in regards to the transaction value limits for complex properties in the scope of practice for the licensed residential classification due to changes in federal law. There was no further discussion.

7. ASSOCIATION OF APPRAISER REGULATORY OFFICIALS: No discussion.

8. IN THE NEWS: No discussion.

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

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

- CG19025R / Approve as Certified General Real Property Appraiser.
 CG19026R / Approve as Certified General Real Property Appraiser.
 CG19027R / Approve as Certified General Real Property Appraiser.
 CG20001R / Approve as Certified General Real Property Appraiser.
 CG20002R / Approve as Certified General Real Property Appraiser.
 - CR19016 / Education and experience accepted. Approve to sit for exam, and authorize Director to issue a credential as a Certified Residential Real Property Appraiser upon successful completion of exam.
 - CR19017 / Education and experience accepted. Approve to sit for exam, and authorize Director to issue a credential as a Certified Residential Real Property Appraiser upon successful completion of exam.

1583 / Deny.

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

Board Member Mustoe moved to authorize agency to approve all renewal applications received at the Board's office on or before January 14, 2020 with advisory letter, pending the results of the background check if applicable, if all requirements for renewal are met by the applicant. Board Member Luhrs seconded the motion. Motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

E. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

NE2019007 / Approve for registration as an Appraisal Management Company.

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

F. CONSIDERATION OF COMPLIANCE MATTERS: No discussion.

G. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

1. NE2012035

Board Member Mustoe moved file Grievance 20-01 and open an investigation for the alleged violation of Nebraska Revised Statute § 76-3216(4)(c). Board Member Luhrs seconded the motion. Motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye.

2. PERSONNEL MATTERS: No discussion.

S. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member Luhrs seconded the motion. Motion carried with Mustoe, Luhrs, Walkenhorst, and Hynek voting aye. At 10:23 a.m., Chairperson Hynek adjourned the January 16, 2020 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz Director

These minutes were available for public inspection on January 23, 2020, in compliance with Nebraska Revised Statute § 84-1413 (5).