

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

August 19, 2021 Meeting Minutes

A. OPENING

Chairperson Christopher Mustoe called to order the August 19, 2021 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 Mustoe 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 August 10, 2021. The agenda was kept current in the Nebraska Real Property Appraiser Board office and on the Board's website. In accordance with the Open Meetings Act, at least one copy of all reproducible written material for this meeting, either in paper or electronic form, was available for examination and copying by members of the public. The material in paper form was available on the table in a public folder, and the material in electronic form was available on the Board's website in Public Meeting Material (https://appraiser.ne.gov/board_meetings/). A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Christopher Mustoe of Omaha, Nebraska, Thomas Luhrs of Imperial, Nebraska, Wade Walkenhorst of Lincoln, Nebraska, Bonnie Downing of Dunning, Nebraska, and Cody Gerdes of Lincoln, Nebraska were present. Also present were Director Tyler Kohtz, Business and Licensing Program Manager Allison Nespor, and Business and Education Program Manager Katja Duerig, who are all headquartered in Lincoln, Nebraska.

ADOPTION OF THE AGENDA

Chairperson Mustoe 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 Luhrs moved to adopt the agenda as printed. Board Member Walkenhorst seconded the motion. With no further discussion, the motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

Board Member Luhrs 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 Downing seconded the motion. The time on the meeting clock was 9:03 a.m. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

Board Member Luhrs moved to come out of executive session at 9:57 a.m. Board Member Downing seconded the motion. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

Break from 9:57 a.m. to 10:00 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Mustoe welcomed all, and said he hopes everyone's summer is wrapping up nicely and all are healthy. The Chairperson shared his hope for a pleasant fall. Roger Morrissey was the only member of the public present.

H. BOARD MEETING MINUTES

1. APPROVAL OF JULY 15, 2021 MEETING MINUTES

Chairperson Mustoe asked for any additions or corrections to the July 15, 2021 meeting minutes. With no discussion, Chairperson Mustoe called for a motion. Board Member Luhrs moved to adopt the July 15, 2021 meeting minutes as presented. Board Member Downing seconded the motion. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

I. DIRECTOR'S REPORT

1. REAL PROPERTY APPRAISER AND AMC COUNTS AND TRENDS

a. Real Property Appraiser Report

Director Kohtz presented seven charts outlining the number of appraisers as of August 19, 2021 to the Board for review. The Director reported that he had no specific comments and asked for questions or comments. There was no discussion.

b. Temporary Real Property Appraiser Report

Director Kohtz presented three charts outlining the number of temporary credentials issued as of July 31, 2021 to the Board for review. The Director asked for any questions or comments. There was no further discussion.

c. Supervisory Real Property Appraiser Report

Director Kohtz presented two charts outlining the number of supervisory appraisers as of August 19, 2021 to the Board for review. The Director reported that he had no comments, and asked for any questions or comments. There was no discussion.

d. AMC Report

Director Kohtz presented two charts outlining the number of AMCs as of August 19, 2021 to the Board for review. The Director reported that he had no comments, and asked for any questions or comments. There was no discussion.

2. DIRECTOR APPROVAL OF APPLICANTS

a. Real Property Appraiser Report

Director Kohtz presented the Real Property Appraiser Report to the Board for review showing real property appraiser applicants approved for credentialing by the Director, and the real property appraiser applicants approved to sit for exam by the Director, for the period between July 1, 2021 and August 10, 2021. The Director asked for any questions or comments. There was no further discussion.

b. Appraisal Management Company Report

Director Kohtz presented the Appraisal Management Company Report showing appraisal management companies approved for registration by the Director for the period between July 1, 2021 and August 10, 2021 to the Board for review. The Director asked for any questions or comments. There was no further discussion.

c. Education Activities and Instructors Report

Director Kohtz presented the Education Activities and Instructors Report showing education activities and instructors approved by the Director for the period between July 1, 2021 and August 10, 2021 to the Board for review. The Director asked for any questions or comments. There was no further discussion.

3. 2021-22 NRPAB GOALS AND OBJECTIVES + SWOT ANALYSIS

Director Kohtz presented the 2021-22 NRPAB Goals and Objectives and SWOT Analysis to the Board for review and provided a status update. The Director guided the Board to Laws, Rules, and Guidance Documents, and reported that the first draft of the Real Property Appraiser Act update has been completed. Director Kohtz then moved to Credentialing and Registration, and informed the Board that a second attempt to contact Pearson Vue was made on August 9, 2021, but no response has been received. Another Credentialing and Registration goal, limit the disciplinary action reporting requirement to a set number of years based on reasonableness on the applications for credentialing, was completed on July 15, 2021. Finally, Director Kohtz informed the Board that no response has been received from OCIO regarding the requests for a cost estimate for the Develop API Translator between NRPAB Database and ASC Federal Registries and the AMC Renewal Online Application and Interface projects. Chairperson Mustoe asked whether the OCIO is communicating with the agency at all. Director Kohtz responded that the OCIO has been working on numerous small tickets, but that it does not seem interested in taking on these larger projects right now. Chairperson Mustoe thanked the Director. Director Kohtz asked for any questions or comments. With no further discussion, Chairperson Mustoe invited the Director to proceed to Financial Report and Considerations.

J. FINANCIAL REPORT AND CONSIDERATIONS – AUGUST 2021

1. APPROVAL OF JULY RECEIPTS AND EXPENDITURES

The receipts and expenditures for July were presented to the Board for review in the Budget Status Report. Director Kohtz brought attention to the Employee Assistance Pro expense, and informed the Board that the \$37.08 expenditure is a Department of Administrative Services assessment for counseling services for employment issues, family issues, chemical dependency issues, or any other issue causing employees problems. The Director moved on to the \$1,037.00 expense for Accounting and Auditing Services. Director Kohtz indicated that this expenditure is another DAS assessment, this one for accounting and pre-auditing services provided to the Board by DAS. The Director then reported that the \$1,014.40 expenditure for Office Supplies Expense is primarily attributed to an update to the agency's appraisal publications library. A discussion took place regarding which publications were purchased and how recently the current editions of some of the publications became available. Director Kohtz noted that expenditures for the month of July totaled \$26,917.78, which amounts to 6.64 percent of the budgeted expenditures for the fiscal year; 8.49 percent of the fiscal year has passed.

The Director turned the Board's attention to revenues, and declared that \$5,225.00 in revenues were received for Certified General Renewal fees during the month. Director Kohtz remarked that the early availability of the online renewal application has already helped spread out real property appraiser renewal application submissions, which has had a positive effect on staff resources and revenues. Revenues reported for July were \$29,049.72, and total revenues amount to 7.09 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 July. The Director reported that he had no specific comments, and asked for any questions or comments. BLPM Nespor noted that the NRPAB RENEW EFW DEPOSIT entries indicate a deposit of funds received via electronic funds withdrawal for the online renewal application. Director Kohtz thanked BLPM Nespor. There was no further discussion.

Director Kohtz presented three graphs showing expenses, revenues, and cash balance. The Director once again announced the expenditures and revenues for the month of July for the Real Property Appraiser Program, which includes both the Appraiser Fund and the AMC Fund. The Director then remarked that the cash balance for the AMC Fund is \$320,180.43, the Appraiser Fund is \$374,402.35, and the overall cash balance for both funds is \$694,582.78. Director Kohtz announced that the Board currently has a healthy cash balance, then asked for any questions related to the graphs. There was no further discussion.

Board Member Downing moved to accept and file the July 2021 financial reports for audit. Board Member Walkenhorst seconded the motion. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe 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.

K. GENERAL PUBLIC COMMENTS

Chairperson Mustoe asked for any public comments. Roger Morrissey appeared before the Board. Mr. Morrissey inquired why an education provider would offer a course for three and one-half, or six and one-half hours, rather than a round number, such as three or six. Director Kohtz informed Mr. Morrissey that the number of hours approved for education activities depends on the amount of the course content that is applicable to real property appraisal practice. The Director continued by saying that an education provider might submit the activity for that specific amount, or the activity may be approved for an amount of time that is different from what is submitted based on what qualifies as real property appraiser education time.

Mr. Morrissey brought attention to the fact that the 2021 Commercial Real Estate Summit is only approved by the Board for six and one-half hours of continuing education. BEPM Duerig remarked that, in this case, the application for this activity requested six and one-half hours, and the actual instruction time was also found to be six and one-half hours during review of the activity. Mr. Morrissey indicated that it is strange that this would occur when it is commonly known that appraisers need twenty-eight hours of continuing education every CE period; the half hours don't mean much. Chairperson Mustoe commented that there is no penalty for completing more than twenty-eight hours in a continuing education period. The Chairperson agreed that the Commercial Real Estate Summit is always a beneficial event for appraisers, and informed Mr. Morrissey that the Commercial Real Estate Summit organizers would be better able to answer his question. Mr. Morrissey thanked the Board for their time. There was no further discussion.

L. CONSIDERATION OF EDUCATION/INSTRUCTOR REQUESTS: No discussion.

M. UNFINISHED BUSINESS

1. REAL PROPERTY APPRAISER NATIONAL UNIFORM LICENSING AND CERTIFICATION EXAM TESTING SERVICE INQUIRY

Director Kohtz reported that he had made a second attempt at contacting Pearson Vue on August 9, 2021, but has received no response to date. The Director then asked BLPN Nespor for an update on the current testing service. BLPN Nespor responded that two real property appraiser applicants took residential certification exams with no problems, but issues are still being reported for those wishing to take the general certification exam. The Director thanked BLPN Nespor, and asked for any questions or comments. There was no further discussion.

2. SUPERVISORY REAL PROPERTY APPRAISER AND TRAINEE COURSE

Director Kohtz reported that an online supervisory real property appraiser and trainee course has been approved and is currently available to Nebraska residents. BLPN Nespor indicated that at least two certificates of completion have been submitted for the course. The Director asked for any questions or comments. There was no further discussion.

N. NEW BUSINESS

1. RENEWAL SEASON TEMPORARY EMPLOYEES

Director Kohtz reported that the process of hiring two part-time interns to assist with credential renewals has begun. The Director noted that the anticipated start date for the positions is September 27, and the employees are usually on staff until mid-January. The Director asked for any questions or comments. There was no further discussion.

O. LEGISLATIVE REPORT AND BUSINESS

1. NEBRASKA REAL PROPERTY APPRAISER ACT UPDATE

Director Kohtz presented the August 2, 2021 draft of the Nebraska Real Property Appraiser Act with changes to the Board for consideration. The Director summarized the draft and brought attention to the following changes:

- Neb. Rev. Stat. § 76-2213.03 is added to include a definition for PAREA.
- The definition of “two-year continuing education period” is changed in N.R.S. § 76-2218 to accommodate those Nebraska real property appraisers who obtained their credential through reciprocity and who held a credential in another jurisdiction at the beginning of the year in which they were awarded a credential by the Board. This allows for the use of continuing education obtained in another jurisdiction prior to credentialing in Nebraska to be used as continuing education in Nebraska. If the individual was not credentialed in another jurisdiction at the beginning of the year in which they were awarded a credential by the Board, then the two-year continuing education period is the same as those awarded a credential through education, experience, and examination.
- The language in N.R.S. § 76-2221(4), “...except that a real property appraiser or a person licensed under the Nebraska Real Estate License Act is not exempt under this subdivision” is stricken, and the phrase, “...for the purpose of real estate taxation” is added. This change exempts any person from the Real Property Appraiser Act for the purpose of rendering an estimate or opinion of value as an owner of real estate.
- When referring to issuance of real property appraiser credentials, issuance of AMC registrations, and approval of education activities and instructors, “Real Property Appraiser Board” or “board” is stricken before “approval” throughout. This change is made for the purpose of transparency to not mislead the public as to who makes such approvals. The approval procedures are specified in Title 298, and indicate when such approval is made by the Director and when such approval is made by the Board. Director Kohtz indicated that these changes may be removed from the draft after discussion with the Banking, Commerce, and Insurance Committee legal counsel as the change may be seen as unnecessary.
- Language is added to N.R.S. §§ 76-2230, 76-2231.01, and 76-2232 to allow the successful completion of a PAREA program as prescribed by rules and regulation of the Board to be accepted as an alternative to the experience hour requirements as defined in the Real Property Appraiser Qualifications Criteria.
- An error regarding the number of semester hours required in the college-level examination program for the certified residential classification is corrected in N.R.S. § 76-2231.01. The Real Property Appraiser Qualifications Criteria require that six hours each be completed for college composition and for college mathematics, not three hours each.

- “Completion date” is stricken from the requirements for an applicant to qualify for issuance of a temporary credential in N.R.S. § 76-2233.01. Director Kohtz reminded the Board that this was discussed during the strategic planning meeting.

Director Kohtz asked for any questions or comments. The board members expressed support for the changes in the draft. Director Kohtz indicated that the next step is working with Bill Marienau, Legal Counsel for the Banking, Commerce, and Insurance Committee, to put together a requisition draft in a bill format. Board Member Luhrs moved to approve the Nebraska Real Property Appraiser Act update draft as presented, and authorize Director Kohtz to work with the Committee legal counsel to prepare a requisition draft. Board Member Walkenhorst seconded the motion. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

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: No discussion.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. FORMS, APPLICATIONS, AND PROCEDURES

Director Kohtz presented the following new forms to the Board for consideration:

- Subject Matter Expert Services Contractor USPAP Compliance Review Report Check Sheet**
- Applicant Appraisal Review Services Contractor USPAP Compliance Review Report Check Sheet**

Director Kohtz reported that these forms were developed to ensure that USPAP compliance review contractors meet the scope of work in the appraisal services agreement before submitting a USPAP Compliance Review Report to the Board. Board Member Luhrs moved to approve the Subject Matter Expert Services Contractor USPAP Compliance Review Report Check Sheet and the Applicant Appraisal Review Services Contractor USPAP Compliance Review Report Check Sheet as presented. Board Member Downing seconded the motion. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

Q. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

2. CONFERENCES/EDUCATION: No discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE

a. Review of Appraisal Standards and Appraiser Criteria; Focus on Fairness, Equity, Objectivity and Diversity

Director Kohtz presented an Appraisal Subcommittee media release titled, “Review of Appraisal Standards and Appraiser Criteria; Focus on Fairness, Equity, Objectivity and Diversity” to the Board for review. The Director reported that he had no specific comments, and asked for any questions or comments. There was no discussion.

6. THE APPRAISAL FOUNDATION

a. TAF August Newsletter

Director Kohtz presented The Appraisal Foundation’s August newsletter to the Board for review. The Director asked for any questions or comments. There was no discussion.

b. First Exposure Draft of a Proposed General Interpretation of the Real Property Appraiser Qualification Criteria

Director Kohtz presented The Appraisal Foundation’s First Exposure Draft of a Proposed General Interpretation of the Real Property Appraiser Qualification Criteria to the Board for review. The Director remarked that some states are not approving an individual’s experience and education before allowing him or her to sit for the exam. Director Kohtz expressed uncertainty as to how this could happen as the Real Property Appraiser Qualifications Criteria is very clear that an applicant’s education and experience must be approved prior to sitting for exam, and the ASC enforces the criteria in this manner. The Director asked for any questions or comments. There was no further discussion.

c. TAF Final Results Diversity Survey

Director Kohtz introduced to the Board for review, a presentation titled, “The Appraisal Foundation Final Results Diversity Survey.” The Director reported that he had no comments, and asked for any questions or comments. There was no discussion.

7. ASSOCIATION OF APPRAISER REGULATORY OFFICIALS

a. AARO Quarterly Update – 8.1.2021

Director Kohtz presented the AARO Quarterly Update – 8.1.2021 to the Board for review. The Director informed the Board that he had no specific comments, and asked for any questions or comments. Board Member Gerdes inquired whether AARO had decided to make any changes to the upcoming, in-person conference in Washington, D.C. in light of the nationwide surge of COVID-19 cases. Director Kohtz reported that no call has been made yet. There was no further discussion.

8. IN THE NEWS: No discussion.

Break from 10:42 a.m. to 11:11 a.m.

Board Member Luhrs moved that the Board go into executive session for the purpose of investigations 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 11:11 a.m. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

Board Member Walkenhorst moved to come out of executive session at 12:10 p.m. Board Member Luhrs seconded the motion. The motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

C. CREDENTIALING AS A NEBRASKA REAL PROPERTY APPRAISER

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

- T21019 / Approve as Trainee Real Property Appraiser.**
- T21020 / Deny. Send advisory letter.**

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: No discussion.

E. CONSIDERATION OF COMPLIANCE MATTERS

Board Member Luhrs moved to take the following actions for compliance matters:

- 21-04 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. §§ 76-2237 and 76-2238 (4)(12)(14).**
- 21-05 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. §§ 76-2237 and 76-2238 (4)(12)(14).**
- 20-11 / Authorize Special Assistant Attorney General Blake to file formal charges for violation of Neb. Rev. Stat. §§ 76-2237 and 76-2238 (4)(5)(12)(14)(19), and authorize Director Kohtz to negotiate a consent agreement through SAAG Blake.**

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

1. 2021.09

The Board reviewed documentation received from the Nebraska Department of Education showing that an education provider may be advertising appraiser education activities to Nebraska resident real property appraisers without first obtaining approval by the Board. The Board agreed that notice of Nebraska law pertaining to advertisement of appraiser education activities should be provided to the education provider. Board Member Luhrs moved to send the education provider a letter to inform the organization of the requirements pertaining to advertising or offering appraiser education activities to Nebraska credential holders as found in the Real Property Appraiser Act and Title 298. Board Member Downing seconded the motion. Motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

2. PERSONNEL MATTERS

The Board discussed personnel matters. No action was taken by the Board.

R. ADJOURNMENT

Board Member Luhrs moved to adjourn the meeting. Board Member Walkenhorst seconded the motion. Motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye. At 12:13 p.m., Chairperson Mustoe adjourned the August 19, 2021 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on August 27, 2021, in compliance with Nebraska Revised Statute § 84-1413 (5).