

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

January 20, 2022 Meeting Minutes

A. OPENING

Chairperson Christopher Mustoe called to order the January 20, 2022 meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., by virtual conferencing 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 January 11, 2022. 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 Downing seconded the motion. With no further discussion, the motion carried with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

C. ELECTION OF OFFICERS

Board Member Downing nominated Thomas Luhrs as Chairperson of the Board for 2022. Board Member Walkenhorst seconded the nomination. With no further nominations or discussion, Luhrs was elected with Luhrs, Walkenhorst, Downing, Gerdes, and Mustoe voting aye.

Board Member Luhrs nominated Wade Walkenhorst as Vice-chairperson of the Board for 2022. Board Member Downing seconded the nomination. With no further nominations or discussion, Walkenhorst was elected with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

Board Member Mustoe announced that it is time for him to pass the baton. Board Member Mustoe said, “I appreciate everything you’ve all been for me and done for me.” He thanked the Board Members with whom he has served, acknowledging the longer-serving members as well as newer members. Finally, Board Member Mustoe thanked the “constants,” the staff.

Chairperson Luhrs made remarks to Board Member Mustoe. The Chairperson said that he has enjoyed serving alongside Board Member Mustoe. According to Chairperson Luhrs, they have connected at several times throughout their careers, and it has been a good experience to reconnect during their years on the Board. Chairperson Luhrs thanked Board Member Mustoe for his service to the profession and to the Board.

Board Member Walkenhorst 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 9:06 a.m. The motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

Board Member Downing moved to come out of executive session at 9:39 a.m. Board Member Mustoe seconded the motion. The motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

Break from 9:39 a.m. to 10:00 a.m.

H. WELCOME AND CHAIR’S REMARKS

Chairperson Luhrs welcomed all to the meeting and noted that there were no members of the public present. The Chairperson reiterated that he has enjoyed working with Chris Mustoe on the Board.

I. NRPAB EMPLOYEE RECOGNITION AWARD

The Board recognized outgoing board member Chris Mustoe and thanked him for his service. Chairperson Luhrs presented Board Member Mustoe with a plaque and the past board member pin. Board Member Mustoe once again thanked board members and staff. He opined that the agency is in a good place, and moving forward, it will be in wonderful hands. He recognized the staff’s efforts to make work easier for board members and credential holders. Finally, Board Member Mustoe wished everyone a wonderful 2022. Director Kohtz thanked Board Member Mustoe for the recognition and indicated that he and the staff have enjoyed serving him as well.

J. BOARD MEETING MINUTES

a. APPROVAL OF DECEMBER 16, 2021 MEETING MINUTES

Chairperson Luhrs asked for any additions or corrections to the December 16, 2021 meeting minutes. With no discussion, Chairperson Luhrs called for a motion. Board Member Downing moved to adopt the December 16, 2021 meeting minutes as presented. Board Member Walkenhorst seconded the motion. The motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

K. DIRECTOR'S REPORT

1. REAL PROPERTY APPRAISER AND AMC COUNTS AND TRENDS

a. Real Property Appraiser Report

Director Kohtz presented ten charts outlining the number of real property appraisers as of January 20, 2022 to the Board for review. The Director reported that every January 1st, the real property appraiser counts experience a significant drop due to non-renewed real property appraiser credentials expiring. Director Kohtz indicated that the “cliff” was not as significant as last year, and overall, the number of credentialed appraisers is stable. The Director reported that the number of real property appraisers credentialed through education, experience, and examination (not including Trainee) fared well, and indicated that the number of certified general real property appraisers remained the same, the number of certified residential real property appraisers increased by eight, and the number of licensed real property appraisers decreased by five. Director Kohtz also reported that the number of real property appraisers credentialed through reciprocity increased overall, with certified general real property appraisers increasing by eight, certified residential real property appraisers remaining the same, and the licensed residential real property appraisers increasing by one. Director Kohtz commented that three licensed residential real property appraiser credentials were issued in 2021, which has not happened in a long time. Director Kohtz summarized the thirteen-month trend of real property appraisers by classification by saying, “You can see the drop, but we are faring well and coming out better than I thought.” The Director asked for any 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 December 31, 2021 to the Board for review. The Director reported that the calendar year ended with 178 temporary credentials being issued, which is right in line with the five-year history. Director Kohtz asked for any questions or comments. There was no discussion.

c. Supervisory Real Property Appraiser Report

Director Kohtz presented two charts outlining the number of supervisory real property appraisers as of January 20, 2022 to the Board for review. The Director reported that there is once again a drop in the number of registered supervisory real property appraisers due to non-renewed credentials expiring. Director Kohtz commented that the five-year trend continues to move in a positive direction. The Director asked for any questions or comments. There was no further discussion.

d. AMC Report

Director Kohtz presented two charts outlining the number of AMCs as of January 20, 2022 to the Board for review. The Director reported that the five-year trend is stabilizing after the implementation of the AMC Final Rule. Director Kohtz indicated that he had no further 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 December 7, 2021 and January 10, 2022. 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 December 7, 2021 and January 10, 2022. The Director asked for any questions or comments. There was no discussion.

c. Education Activity and Instructors Report

Director Kohtz presented the Education Activities and Instructors Report to the Board for review showing education activities and instructors approved by the Director for the period between December 7, 2021 and January 10, 2022. 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 goals related to Laws, Rules, and Guidance Documents. The Director announced that the updates to Title 298 were approved by Governor Ricketts on December 16 and became effective on December 21, 2021; this goal is complete. Director Kohtz then stated that the Board's bill, LB706, was introduced by Senator Williams on January 5, 2022, so updates to the Real Property Appraiser Act are moving forward. The Director moved on to goals related to Credentialing and Registration, specifically, to explore the development of a supervisory real property appraiser eligibility list derived from a question on the Application for Renewal of Nebraska Real Property Appraiser Credential. The Director remarked that he asked OCIO for an update on the development of a quote for this project, but no response has been received; he will keep asking for updates periodically. Finally, the Director brought attention to explore use of Federal grant money to pursue development of a translator system between the NRPAB Database and the ASC Federal Registry system under Administration goals. The Director said the status of this goal is the same as the supervisory real property appraiser eligibility list. Director Kohtz asked for any questions or comments. There was no further discussion.

L. FINANCIAL REPORT AND CONSIDERATIONS – JANUARY 2022

1. APPROVAL OF DECEMBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for December were presented to the Board for review in the Budget Status Report. Director Kohtz reported that this month had three pay periods, so all Personal Services expenses were higher. The Director turned the Board's attention to a DATA PROCESSING EXPENSE of \$6,079.41. The Director remarked that this expenditure is higher than normal due to two bills being paid during the month; the November bill had an error that the agency required to be corrected before the bill was paid, which pushed the payment into December. Director Kohtz indicated that expenditures for the month of December totaled \$40,537.51, which amounts to 41.33 percent of the budgeted expenditures for the fiscal year; 50.41 percent of the fiscal year has passed. The year-to-date expenditures for the fiscal year are \$172,819.16. The Director noted that expenditures are 10 percent below budget, so now is the time to begin pushing OCIO to work on our technology projects. The Director then turned the Board's attention to revenues and reported that revenues for December were \$75,136.59. The year-to-date revenues for the fiscal year are \$258,085.21, and total revenues amount to 73.05 percent of the projected revenues for the fiscal year. Director Kohtz attributed the high revenues for the month of December to appraiser and AMC renewals. The Director asked for any questions or comments. There was no further discussion.

Director Kohtz then brought attention to the MTD General Ledger for December. The Director stated that he had no specific comments and asked for any questions or comments. There was no further discussion.

Director Kohtz presented three graphs showing expenses, revenues, and cash balance. The Director once again pointed out the expenditures and revenues for the month of December 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 \$344,657.28, the Appraiser Fund is \$447,947.64, and the overall cash balance for both funds is \$792,604.92. The Director asked for any questions or comments. There was no further discussion.

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

3. GOVERNOR'S BUDGET RECOMMENDATIONS, MID-BIENNIUM BUDGET ADJUSTMENTS, 2021-2023 BIENNIUM

Director Kohtz presented Governor Ricketts' Mid-Biennium Budget Adjustments, 2021-2023 Biennium to the Board for review. The Director reported that the Governor included the Board's request for a PSL appropriation increase related to the reclassification of BEPM Duerig's position in 2021. The Director asked for any questions or comments. There was no further discussion.

4. 2022 AARO MEMBERSHIP DUES

Director Kohtz presented an invoice from AARO for 2022 membership dues. The Director asked the Board if it would like to remain a member of AARO. All Board Members agreed to remain a member of AARO. Board Member Downing moved to approve payment of the 2022 AARO membership dues. Board Member Walkenhorst seconded the motion. The motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

M. GENERAL PUBLIC COMMENTS

Chairperson Luhrs asked for any public comments. No members of the public were present in the meeting room or participating by virtual conferencing. With no comments, Chairperson Luhrs moved on to Consideration of Education/Instructor requests.

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

O. UNFINISHED BUSINESS

1. OPEN 2ND CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION

Director Kohtz brought attention to the open 2nd Congressional District Certified Real Property Appraiser Representative position. The Director informed the Board that he expects an appointment to be made soon. Board Member Mustoe said, “As long as you let me know when I need to stop coming.” The Director asked for any questions or comments. There was no further discussion.

P. NEW BUSINESS: No discussion.

Q. LEGISLATIVE REPORT AND BUSINESS

1. CURRENT LEGISLATION

Director Kohtz presented the first legislative report of the current session to the Board for review. The Director provided a brief summary for each bill included in the report. The Director noted that LB54 through LB489 are carryover bills, so he would not provide an update on these bills.

LB700 – While this bill would not affect the Board, it would affect Board staff. It changes provisions relating to certain funds and would eliminate provisions relating to termination of employment and early retirement inducement notification.

LB706 – This bill updates the Nebraska Real Property Appraiser Act to implement the Real Property Appraiser Qualifications Criteria adopted by The Appraisal Foundation’s Appraiser Qualifications Board, effective on January 1, 2021; and to maintain compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Director Kohtz reported that the hearing is scheduled for Monday, and that he will represent the Board. Director Kohtz indicated that he does not anticipate any problems.

LB707 – This bill changes provisions relating to banks, financial institutions, bank subsidiaries, and residential mortgage loans and adopt certain updates to federal law. The Director remarked that this is the Department of Banking’s standard update bill.

LB709 – This bill changes requirements relating to preliminary applications under the Occupational Board Reform Act, only allows for certain felony convictions to be disqualifying, and provides for a waiver of fees based on the applicant's income being more than 300% below the federal poverty level.

LB742 – This bill requires that meeting minutes be kept in writing or as an electronic file. Director Kohtz commented that this is not a worry.

LB743 – This bill provides limitations for which closed session discussions may be held under the Open Meetings Act. The Director informed the Board that bill would likely prohibit the Board from having closed session discussions about applicants and possibly investigations. The Director added that this is concerning and he will watch this bill closely.

LB769 – This bill requires certain state employees to submit to fingerprinting and criminal history record checks. Director Kohtz indicated that this bill would not affect the agency as it only applies to employees who have access to state and federal tax information.

LB778 – This bill provides for the efficient procurement of goods and services by governmental units and to promote the economical, nondiscriminatory, and efficient administration and completion of construction projects funded, assisted, or awarded by a governmental unit. LB778 limits or prohibits certain language or provisions from state contracts. The Director reported that this type of bill appears every year, but doesn't go anywhere, so he will not be watching it closely.

LB823 – This bill prohibits state agencies from imposing annual filing and reporting requirements on charitable organizations. The Director remarked that this would not affect the agency.

LB892 – This bill changes provisions of the Nebraska Real Estate License Act. It provides for the public marketing by a real estate broker, associate broker, or real estate salesperson for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser.

LB908 – This bill provides additional requirements for virtual conferencing under the Open Meetings Act. According to the Director, this bill removes all authorization to take motions or actions during virtual conferencing for public meetings and requires that a subsequent meeting be scheduled to move on any items discussed during a meeting held by virtual conferencing. This bill would render virtual conferencing useless for the most part.

Director Kohtz asked for any questions or comments concerning the legislative report. The Director asked if there is a bill that is not included in the report that may be of importance to the Board, that he be contacted to have it added to the list. There was no further discussion.

2. TITLE 298

Director Kohtz again reported that the Governor approved the Board's adopted changes to Title 298 on December 16, and the changes became effective on December 21, 2021. The Director asked for any questions or comments. There was no further discussion.

3. 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.

R. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS

a. 21-01: Real Property Appraiser, Education Activity, and Appraisal Management Company Application Approval (Retire)

Director Kohtz presented guidance document number 21-01 to the Board for consideration to retire. The Director reported that the guidance in this document has been incorporated into Title 298, and the guidance document can now be retired. Board Member Downing moved to retire Guidance Document 21-01. Board Member Walkenhorst seconded the motion. The motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. FORMS, APPLICATIONS, AND PROCEDURES: No discussion.

S. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

2. CONFERENCES/EDUCATION

a. Spring AARO Conference; May 13-15, 2022 – San Antonio, TX

Director Kohtz reported that the Spring 2022 AARO Conference would take place on May 13-15 in San Antonio, Texas. The Director informed the Board that he plans to attend and asked for permission to attend the conference on behalf of the Board. No board members expressed interest in attending. Board Member Walkenhorst moved to approve Director Kohtz for attendance at the Spring 2022 AARO Conference on May 13-15, 2022. Board Member Downing seconded the motion. The motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE

a. A Proposed Rule by the Federal Financial Institutions Examination Council on 01/13/2022 – Appraisal Subcommittee, Appraiser Regulation; Temporary Waiver Requests

Director Kohtz presented an entry in volume 87, number 9 in the Federal Register titled, “Appraisal Subcommittee: Appraiser Regulation; Temporary Waiver Requests” to the Board for review. The Director reported that this notice of proposed rulemaking and request for public comment related to the amendment of existing rules of practice and procedures governing temporary waiver proceedings to provide for greater transparency and clarity on temporary waiver proceedings. A clear distinction is made between a request from a State appraiser regulatory agency for a temporary waiver, and information received from other persons or entities, which is to be referred to as a petition. Director Kohtz asked for any questions or comments. There was no discussion.

b. ASC Meeting: March 9, 2022

Director Kohtz announced that the next ASC Meeting would take place on March 9, 2022. The Director asked for any questions or comments. There was no discussion.

c. ASC September 15, 2021 Meeting Minutes

Director Kohtz presented the ASC September 15, 2021 meeting minutes to the Board for review. The Director brought attention to a discussion in which The Appraisal Foundation indicates that, in the past, it has requested grant funding from the ASC to send a copy of USPAP to real property appraisers, but that the ASC denied the request. Director Kohtz remarked that he found it interesting that this request has not previously been made public and added that he thinks this would be good idea. The Director asked for any questions or comments. There was no further discussion.

6. THE APPRAISAL FOUNDATION

a. TAF January Newsletter

Director Kohtz presented The Appraisal Foundation’s January newsletter to the Board for review and informed the Board that he had no specific comments. The Director asked for any questions or comments. There was no discussion.

b. Updates from the AQB

Director Kohtz presented a document titled, “Updates from the AQB.” The Director guided the Board to page S.20 in the packet and noted the chart indicating where states stand on the adoption of PAREA. The Director then moved on to page S.22 and informed the Board that the AQB is in the process of developing a course delivery mechanism approval alternative to IDECC, which is anticipated to be ready in 2022. Director Kohtz opined that the course delivery mechanism will likely be incorporated into the AQB approval process. Director Kohtz asked for any questions or comments. There was no further discussion.

c. ASB Public Meeting: October 20, 2022 – Virtual

Director Kohtz announced that the ASB will hold a virtual public meeting on October 20, 2022. The Director asked for any other questions or comments. There was no further discussion.

7. ASSOCIATION OF APPRAISER REGULATORY OFFICIALS

a. AARO President's Report 12-17-21

Director Kohtz presented the AARO President's Report dated December 17, 2021 to the Board for review. The Director stated that he was shocked to read that only 43 of 53 member jurisdictions are "paying" members of AARO. Director Kohtz then brought attention to discussion of AARO's goal to, "Standardize the continuing education application and approval process for continuing education between states..." The Director commented that this has been talked about for years, but that it is difficult to get states to agree on such of a program. The Director asked for any questions or comments. There was no further discussion.

8. IN THE NEWS: No discussion.

D. CREDENTIALING AS A NEBRASKA REAL PROPERTY APPRAISER

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

CG21020 / Approve to sit for exam and authorize Director to issue credential as a Certified General real property appraiser upon providing evidence of successful completion of the national uniform licensing and certification examination and providing the necessary fees. Send redacted copy of the USPAP Compliance Review Report and issue a written advisory addressing deficiencies in USPAP Compliance Review Report.

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

E. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

Board Member Walkenhorst moved to take the following actions for the appraisal management company as listed:

NE2012054 / Approve renewal of registration as appraisal management company and issue written advisory reminding applicant of the importance of answering questions correctly on an application.

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

F. CONSIDERATION OF COMPLIANCE MATTERS

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

21-05 / Ongoing.
20-11 / Close.

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

G. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

1. 2021.10

The Board reviewed an Application for Preliminary Criminal History Review for a potential real property appraiser and considered the Findings of Fact and Conclusions of Law prepared by Special AAG Blake, as requested by the Board at its December meeting.

2. 2022.01

The Board reviewed a matter in which a real property appraiser may have been untruthful on the initial application for credentialing after a criminal history record check related to the renewal of the real property appraiser credential revealed background information. Board Member Walkenhorst moved to close this matter. Board Member Downing seconded the motion. Motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye.

3. PERSONNEL MATTERS: No discussion.

Board Member Walkenhorst moved to take the following actions for other executive session items:

2021.10 / Adopt Findings of Fact and Conclusions of Law
2022.01 / Close

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

T. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member Downing seconded the motion. Motion carried with Walkenhorst, Downing, Gerdes, Mustoe, and Luhrs voting aye. At 10:49 a.m., Chairperson Luhrs adjourned the January 20, 2022 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on February 3, 2022, in compliance with Nebraska Revised Statute § 84-1413 (5).