

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

October 20, 2022 Meeting Minutes

A. OPENING

Chairperson Thomas Luhrs called to order the October 20, 2022 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 Luhrs 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 October 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 Thomas Luhrs of Imperial, Nebraska, Wade Walkenhorst of Lincoln, Nebraska, Bonnie Downing of Dunning, Nebraska, Cody Gerdes of Lincoln, Nebraska, and Kevin Hermesen of Gretna, Nebraska were present. Also present were Director Tyler Kohtz, Business and Licensing Program Manager Allison Nespor, and Business and Education Program Manager Katja Peppe, who are headquartered in Lincoln, Nebraska.

ADOPTION OF THE AGENDA

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

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 9:03 a.m. The motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye.

Board Member Downing moved to come out of executive session at 9:31 a.m. Board Member Walkenhorst seconded the motion. The motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Luhrs welcomed all to the October 20, 2022 meeting of the Nebraska Real Property Appraiser Board and indicated that he had no remarks. Roger Morrissey was the only member of the public present.

H. BOARD MEETING MINUTES

1. APPROVAL OF SEPTEMBER 15, 2022 MEETING MINUTES

Chairperson Luhrs asked for any additions or corrections to the September 15, 2022 meeting minutes. With no discussion, Chairperson Luhrs called for a motion. Board Member Walkenhorst moved to approve the September 15, 2022 meeting minutes as presented. Board Member Downing seconded the motion. Chairperson Luhrs recognized the motion and asked for any discussion. With no discussion, Chairperson Luhrs called for a vote. The motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs 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 real property appraisers as of October 20, 2022 to the Board for review. The Director reported that there were no changes in trends and that he had no specific comments. 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 September 30, 2022 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.

c. Supervisory Real Property Appraiser Report

Director Kohtz presented two charts outlining the number of supervisory real property appraisers as of October 20, 2022 to the Board for review. The Director reported that there were no changes in trends and that he had no specific comments. Director Kohtz asked for any questions or comments. There was no further discussion.

d. Appraisal Management Company Report

Director Kohtz presented two charts outlining the number of AMCs as of October 20, 2022 to the Board for review. Director Kohtz indicated that the current downward trend will continue to be monitored. The Director asked for any questions or comments. There was no further 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 September 7, 2022 and October 3, 2022. The Director asked for any questions or comments. There was no further discussion.

b. 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 September 7, 2022 and October 3, 2022. The Director asked for any questions or comments. There was no further discussion.

3. 2022-23 NRPAB GOALS AND OBJECTIVES + SWOT ANALYSIS

Director Kohtz presented the 2022-23 NRPAB Goals and Objectives and SWOT Analysis to the Board for review and provided a status update. The Director brought attention to goals related to Laws, Rules, and Guidance Documents, and reported that initial drafts of the Real Property Appraiser Act and Appraisal Management Company Registration Act have been prepared for the Board's review. Also under Laws, Rules, and Guidance Documents, the Director reported that the hearing for changes to Title 298 is set for November 17, 2022. All required documents have been delivered to the Secretary of State's Office, the Executive Board of the Nebraska Legislature, and the Governor's Policy and Research Office. The public notice has also been published in the Lincoln Journal Star. Director Kohtz moved on to goals related to Personnel and stated that SOS temporary employee Marguerite Radcliffe will begin employment on Monday, October 24, 2022. Finally, under Public Information, the Director remarked that progress had been made on the message screen at the top of the NRPAB website for use to disseminate relevant timely information. BLPM Nespor displayed the proposed message screen on the projector for all to see and demonstrated its function. BLPM Nespor informed the Board that this screen would automatically update when the Board's Facebook page is updated. All Board Members expressed acceptance for the design and placement of the message screen. Board Member Gerdes declared that having the website update more often should push it higher in results for search engine inquiries. Director Kohtz stated that, since the Board agreed that this is acceptable, it would be moved to production as soon as possible. The Director said he had no more updates and asked for any questions or comments. There was no further discussion.

J. FINANCIAL REPORT AND CONSIDERATIONS – OCTOBER 2022

1. APPROVAL OF SEPTEMBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for September were presented to the Board for review in the Budget Status Report. Director Kohtz brought attention to the Data Processing Expense of \$6,338.22 and informed the Board that much of this expenditure is for work on the AMC renewal interface and various other database tickets. The Director also noted the Conference Registration expense of \$550.00, which was the cost for his Fall AARO Conference registration. Director Kohtz indicated that expenditures for the month of September totaled \$30,486.01, and the year-to-date expenditures for the fiscal year are \$86,189.35, which amounts to 17.94 percent of the budgeted expenditures for the fiscal year; 25.21 percent of the fiscal year has passed.

The Director turned the Board's attention to revenues and reported that real property appraiser renewal revenues are already strong. Director Kohtz indicated that revenues for September were \$28,440.82, and that the year-to-date revenues for the fiscal year are \$75,613.58, which amounts to 17.81 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 MTD General Ledger for September, and reported that he had no specific comments. The Director asked for any questions or comments. There was no further discussion.

Director Kohtz presented four graphs showing expenses, revenues, and cash balances. The Director once again pointed out the expenditures and revenues for the month of September for the Real Property Appraiser Program, which includes both the Appraiser Fund and the AMC Fund. Director Kohtz then reported that Real Property Appraiser Fund revenues for the month of September totaled \$21,830.84, the Real Property Appraiser Fund expenses totaled \$20,688.00, the AMC Fund revenues totaled \$6,609.98, and the AMC Fund expenses totaled \$9,798.01. The Director then remarked that the cash balance for the AMC Fund is \$345,763.16, the Appraiser Fund is \$369,280.03, and the overall cash balance for both funds is \$715,043.19. The Director asked for any questions or comments. There was no further discussion.

Board Member Walkenhorst moved to accept and file the September 2022 financial reports for audit. Board Member Downing seconded the motion. Chairperson Luhrs recognized the motion and asked for any discussion. With no discussion, Chairperson Luhrs asked for a vote. The motion carried with Walkenhorst, Downing, Gerdes, Hermsen, and Luhrs voting aye.

2. 2023 Mid-Biennium Budget Request

Director Kohtz presented the 2023 Mid-Biennium Budget Request to the Board for consideration. The Director indicated that due to a benefit qualifying life event for a Nebraska Real Property Appraiser Board teammate, the Board's health insurance costs have increased significantly during FY22-23. Director Kohtz reported that this funding request for Health Insurance Expense in the amount of \$5,905.00 is to address the funding deficiency for the difference between the teammate elected "Employee Only" Consumer Focused Health Plan and the "Employee + Spouse" Consumer Focused Health Plan, for FY22-23. Director Kohtz asked for any questions or comments. There was no discussion. Board Member Downing moved to approve the 2023 Mid-Biennium Budget Request for submission to the Nebraska Legislature. Board Member Gerdes seconded the motion. Chairperson Luhrs recognized the motion and asked for any discussion. With no discussion, Chairperson Luhrs asked for a vote. The motion carried with Walkenhorst, Downing, Gerdes, Hermsen, and Luhrs voting aye.

3. 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 Luhrs asked for any public comments. Roger Morrissey requested to speak. The Chairperson invited Mr. Morrissey to make a comment. Mr. Morrissey asked what an “individualized program of continuing education” means. Director Kohtz offered to provide a response. Chairperson Luhrs permitted Director Kohtz to respond. According to the Director, the Nebraska Real Property Appraiser Act outlines certain parameters for what continuing education is and how it is awarded to real property appraisers. Director Kohtz stated that an individual may have a situation where their education does not fit within the Act’s parameters, but it is still compliant with the Real Property Appraiser Qualifications Criteria. The Director remarked that these programs allow approval of specific continuing education as requested, if it meets the Criteria. Mr. Morrissey asked what an example of such of a program would be. Director Kohtz indicated that a few years ago a trainee real property appraiser requested permission to use colleges courses from an AQB approved degree program as continuing education. Although the degree, once conferred, is acceptable in the place of traditional qualifying education, there are no provisions in the Act, or language in the Criteria, allowing the colleges courses completed to earn the degree to be used as continuing education. The Board reviewed the matter with the Appraisal Subcommittee and The Appraisal Foundation, which both agreed that this request would meet the intent of the Criteria. Mr. Morrissey thanked the Director. Chairperson Luhrs asked for any other comments. With no further comments, Chairperson Luhrs moved on to Consideration of Education/Instructor requests.

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

M. UNFINISHED BUSINESS

1. OPEN AT-LARGE LICENSED REAL ESTATE BROKER POSITION

Director Kohtz reported that no applications have been received by the Governor’s office for the open At-large Licensed Real Estate Broker position on the Board to date. The Director asked for any questions or comments. There was no discussion.

2. RENEWAL SEASON TEMPORARY EMPLOYEE

Director Kohtz reiterated his comments made during made during the 2022-23 NRPAB Goals and Objectives and SWOT Analysis status update, and reported that SOS temporary employee Marguerite Radcliffe will start on Monday, October 24, 2022. The Director asked for any questions or comments. There was no discussion.

N. NEW BUSINESS: No discussion.

O. LEGISLATIVE REPORT AND BUSINESS

1. NEBRASKA REAL PROPERTY APPRAISER ACT UPDATE

Director Kohtz presented the September 28, 2022 draft of the Nebraska Real Property Appraiser Act with changes to the Board for consideration. The Director remarked that there are no substantial changes in this draft and only one substantial change in the AMC Registration Act update draft. The Director summarized the September 28, 2022 draft of the Nebraska Real Property Appraiser Act and informed the Board that on page O.27 National Registry is changed to Appraiser Registry as requested by the ASC Policy Managers during the SOA.

2. NEBRASKA APPRAISAL MANAGEMENT COMPANY ACT UPDATE

Director Kohtz presented the September 28, 2022 draft of the Nebraska Appraisal Management Company Registration Act with changes to the Board for consideration. The Director summarized the September 28, 2022 draft of the Nebraska Real Property Appraiser Act and brought attention to the following changes:

- On page O.39, National Registry changed to Appraiser Registry and AMC National Registry changed to AMC Registry as requested by the ASC Policy Managers during the SOA. AMC Final Rule is also changed to AMC Rule as requested by the ASC Policy Managers during the SOA as well.
- On page O.43, AMC Final Rule is changed to AMC Rule.
- On pages O.45 and O.46, AMC National Registry is changed to AMC Registry and AMC Final Rule changed to AMC Rule.
- On page O.47, Neb. Rev. Stat. §§ 76-3209 and 76-3211 are both stricken as the language is no longer relevant after the AMC Registration Act was updated to account for the AMC Rule. All of this information is addressed under Neb. Rev. Stat. § 76-3203.01 pertaining to the Appraisal Panel.
- On page O.50, “AMC” is added before appraiser to use proper defined term AMC Appraiser.
- On page O.5, language is added to provide civil and criminal immunity for board members, the Board’s staff, and those under contract by the Board. This language is modeled after language found in the Real Property Appraiser Act.

Director Kohtz stated that there are no federal law or policy changes required in the Real Property Appraiser Act or the Appraisal Management Company Registration Act during this next Legislative session. The Director also informed the Board that he had a conversation with ASC Policy Manager Tidwell regarding the recommendations made by the Appraisal Subcommittee during its SOA. Specifically, the Director asked if any of the recommendations made during the SOA are critical. P.M. Tidwell indicated that none of the recommendations included in the drafts are critical and can be held for a future bill if the Board wishes to wait for more substantial changes. Director Kohtz indicated that without the federal urgency, the Board’s chance of getting a priority is very small, so the chance of the bill making it through the process is 50%/50%. According to the Director, another consideration that the Board needs to take into account is that the civil and criminal immunity language may slow the process. If there were federal changes included, the bill could simply be amended to remove this language to keep it moving if a problem presented itself, but without federal changes, the bill may just stall if the civil and criminal immunity language becomes a problem. The final factor to take into consideration this year are all the changes that will take place this session. As of now, the Legislature’s Banking, Commerce, and Insurance Committee makeup is unknown, as is the new administration coming in. Chairperson Luhrs asked Director Kohtz what the easiest approach would be. The Director responded that it does not make any difference to him. Director Kohtz continued, if the Board would like, he could discuss the proposed changes with the Committee Legal Counsel Bill Marienau to get a feel for potential success. Chairperson Luhrs expressed support for holding the drafts for the 2024 session. All other board members agreed with this. The Director finished by stating, “With the administration change and all the new senators coming in, it might be a good idea to take a year to get a feel for the new makeup.” There was no further discussion.

3. TITLE 298

Director Kohtz reiterated his comments made during the 2022-23 NRPAB Goals and Objectives and SWOT Analysis status update, and once again informed the Board that the hearing for proposed changes to Title 298 is scheduled for 11:00 a.m. on Thursday, November 17, 2022. The Director also remarked that all paperwork has been submitted as required. The Director asked for any questions or comments. There was no discussion.

4. OTHER LEGISLATIVE MATTERS: No discussion.

P. ADMINISTRATIVE BUSINESS: No discussion.

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. ASC Quarterly Meeting: November 16, 2022

Director Kohtz reported that the ASC scheduled its quarterly meeting for November 16, 2022. The Director asked for any questions or comments. There was no discussion.

b. ASC June 8, 2022 Meeting Minutes

Director Kohtz presented the ASC June 8, 2022 meeting minutes to the Board for review. The Director noted that the minutes refer to a census/survey, which includes the following three projects:

- Create a census using data from the ASC's Appraiser Registry to create a universe of active appraisers. Once this is set up, it will be linked to other private and federal data sources. This will allow CLEAR to utilize statistical sampling techniques from that universe to draw scientifically defensible conclusions on the demographics, experiences, and barriers to entry experienced by active appraisers.
- CLEAR has engaged a research and management organization with expertise on developing testable research questions, aggregating data from multiple sources, and assembling a plan to collect and integrate data.
- Develop data visualization techniques to compile the data and develop new ways to analyze the information and create new strategies for data-based decision making.

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The Director informed the Board that he is unaware of what this appraiser data consists of and how it would be used. Director Kohtz indicated that it may be something that the Board wants to keep an eye on since the data of Nebraska credential holders will be included in this data collection. BEPM Peppe expressed surprise that the ASC was taking on new data visualization projects when the visualization and functionality of the ASC Appraiser and AMC Registries was recently downgraded. BLPM Nespor then provided a demonstration of the new ASC Appraiser Registry to the Board in support of BEPM Peppe's comment. Director Kohtz remarked that the new ASC registries were a popular topic at the Fall AARO Conference, but no mention was made of the ASC's census/survey. The Director asked for any questions or comments. There was no further discussion.

6. THE APPRAISAL FOUNDATION

a. TAF October Newsletter

Director Kohtz presented The Appraisal Foundation's October Newsletter to the Board for review and reported that he had no specific comments. The Director asked for any questions or comments. There was no discussion.

b. AQB Public Meeting: March 22, 2023 – Virtual

Director Kohtz reported that the AQB would hold a virtual public meeting on March 22, 2023. The Director asked for any questions or comments. There was no discussion.

c. ASB Public Meeting: February 16, 2023 – Virtual

Director Kohtz reported that the ASB would hold a virtual public meeting on February 16, 2023. The Director asked for any questions or comments. There was no discussion.

7. ASSOCIATION OF APPRAISER REGULATORY OFFICIALS: No discussion.

8. IN THE NEWS: No discussion.

C. CREDENTIALING AS A NEBRASKA REAL PROPERTY APPRAISER

The Board reviewed CG22024R. Chairperson Luhrs asked for a motion on CG22024R.

Board Member Walkenhorst moved to take the following action:

CG22024R / Hold.

Board Member Downing seconded the motion. Chairperson Luhrs recognized the motion and called for a vote. Motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: No discussion.

E. CONSIDERATION OF COMPLIANCE MATTERS

The Board reviewed 22-02. Chairperson Luhrs asked for a motion for compliance matters. Board Member Walkenhorst moved to take the following action:

22-02 / Dismiss without prejudice.

Board Member Downing seconded the motion. Chairperson Luhrs recognized the motion and called for a vote. Motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye.

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

1. 2022.06

The Board discussed a matter in which a Nebraska registered AMC may not hold an active surety bond as required by Neb. Rev. Stat. § 76-3203(2). Director Kohtz reported that the AMC had provided evidence of an active surety bond. Board Member Walkenhorst moved to close the matter. Board Member Downing seconded the motion. Chairperson Luhrs recognized the motion and called for a vote. Motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye.

2. 2022.07

The Board reviewed an appraisal report received from the Fannie Mae Loan Quality Center. The Board concluded that there were no substantial errors or omissions which lead to non-credible assignment results or USPAP violations. No action was taken by the Board.

3. 2022.08

The Board reviewed an appraisal report received from the Fannie Mae Loan Quality Center. The Board concluded that there were no substantial errors or omissions which lead to non-credible assignment results or USPAP violations. No action was taken by the Board.

4. REQUEST FOR INDIVIDUALIZED PROGRAM OF CONTINUING EDUCATION

a. CG2019018

The Board reviewed a request for an individualized program of continuing education. CG2019018 requested that education activities offered by a specific education provider, not approved by the Board for continuing education at the time of completion, be allowed as continuing education. In accordance with Neb. Rev. Stat. § 76-2236 (4), Board Member Walkenhorst moved to adopt an individualized program of continuing education for CG2019018, for the 2022-2023 continuing education period, as follows:

- Any education activity provided by the specific education provider as requested, not approved by the Board at the time the education activity was completed, but approved by the Board to be offered for continuing education credit at a date after completion, shall be approved for continuing education credit for the number of hours as approved by the Board, if evidence is provided that such education activity was satisfactorily completed during the two-year continuing education period.
- All other provisions of Neb. Rev. Stat. § 76-2236 shall apply.

Board Member Downing seconded the motion. Chairperson Luhrs recognized the motion and called for a vote. Motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye.

b. T2016012

The Board reviewed a request for an individualized program of continuing education. T2016012 requested that education activities offered by a specific education provider, not approved by the Board for continuing education at the time of completion, be allowed as continuing education. Board Member Walkenhorst moved to deny this request for an individualized program of continuing education as the request is made under a trainee real property appraiser credential that is inactive as of October 16, 2022. Board Member Downing seconded the motion. Chairperson Luhrs recognized the motion and called for a vote. Motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye.

5. PERSONNEL MATTERS: No discussion.

R. ADJOURNMENT

Board Member Downing moved to adjourn the meeting. Board Member Gerdes seconded the motion. Motion carried with Walkenhorst, Downing, Gerdes, Hermesen, and Luhrs voting aye. At 10:11 a.m., Chairperson Luhrs adjourned the October 20, 2022 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on November 2, 2022, in compliance with Nebraska Revised Statute § 84-1413 (5).