

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

April 20, 2023 Meeting Minutes

A. OPENING

Chairperson Wade Walkenhorst called to order the April 20, 2023 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 Walkenhorst 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 April 10, 2023. 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 Wade Walkenhorst, of Lincoln, Nebraska, Bonnie Downing of Dunning, Nebraska, Cody Gerdes of Lincoln, Nebraska, and Kevin Hermsen of Gretna, Nebraska were present. Thomas Luhrs of Imperial, Nebraska was absent and excused. Also present were Director Tyler Kohtz, Business and Licensing Program Manager Allison Nespor, and Business and Education Program Manager Kashinda Sims, who are headquartered in Lincoln, Nebraska.

ADOPTION OF THE AGENDA

Chairperson Walkenhorst 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 Gerdes seconded the motion. With no further discussion, the motion carried with Downing, Gerdes, Hermsen, and Walkenhorst voting aye.

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

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

Break from 10:12 a.m. to 10:18 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Walkenhorst welcomed all to the April 20, 2023 meeting of the Nebraska Real Property Appraiser Board and thanked everyone for attending. There were no members of the public present.

H. BOARD MEETING MINUTES

1. APPROVAL OF MARCH 16, 2023 MEETING MINUTES

Chairperson Walkenhorst asked for any additions or corrections to the March 16, 2023 meeting minutes. With no discussion, Chairperson Walkenhorst called for a motion. Board Member Downing moved to approve the March 16, 2023 meeting minutes as presented. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and asked for a vote. The motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

I. DIRECTORS 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 April 20, 2023 to the Board for review. The Director indicated that the trends remain the same and 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 March 31, 2023 to the Board for review. The Director indicated that the trends remain stable 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 April 20, 2023 to the Board for review. The Director indicated that there are no changes to the trends and asked for any questions or comments. There was no discussion.

d. Appraisal Management Company Report

Director Kohtz presented two charts outlining the number of AMCs as of April 20, 2023 to the Board for review. The Director reported that the trends remain the same and asked for any questions or comments. There was no discussion.

2. DIRECTOR APPROVAL OF APPLICANTS

a. Real Property Appraisal 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 March 8, 2023 and April 11, 2023. Director Kohtz asked for any questions or comments. There was no further discussion.

b. Education Activity and Instructor(s) 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 March 8, 2023 and April 11, 2023. The Director asked for any questions or comments. Chairperson Walkenhorst commented that the board staff has been busy processing education applications. Director Kohtz agreed with this comment and indicated that BEPM Sims has made a lot of progress during the last month. 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 the Laws, Rules and Guidance Documents section, and reported that the short term goal to adopt changes to Title 298 to reduce unnecessary regulatory burdens and remove barriers to entry into the real property appraiser profession, provide better clarification and administration, harmonize Title 298 with the changes made to the Nebraska Real Property Appraiser Act through LB707 in 2022, and incorporate changes made to the Real Property Appraiser Qualification Criteria and CAP Guidelines effective on January 1, 2022 is once again moving. The Attorney General's Office has requested an amendment to the adopted changes to Title 298. The Director noted that the amendment is on the agenda. Director Kohtz also brought attention to the urgency to keep the adopted changes to Title 298 progressing as the Appraisal Subcommittee ("ASC") has found the Board's AMC Program rules to be non-compliant with Title XI in its preliminary compliance review report; the Board has sixty days to correct the deficiency or to provide a response. Chairperson Walkenhorst expressed his disappointment with the preliminary compliance review report, as the Board office was gracious enough to assist the ASC by allowing it to conduct a review of the Board's programs due to another state being unprepared for their scheduled compliance review, after an Off-site Assessment ("SOA") was completed just a year ago. The Board was told that its next compliance review would not take place until 2024 after the SOA. Board Member Downing agreed with this statement, and indicated that while the policy managers attended the March meeting, no indication was provided signaling that there were issues with any of the Board's programs. The Director added that staff was also told that there were no substantial findings, and that there was no need to hold an exit conference because there was nothing to discuss. Director Kohtz informed the Board that Policy Manager Tidwell brought the alleged Title 298 non-compliance up during the intro conference, and that he reported this discussion to Chairperson Walkenhorst immediately after that conference.

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Director Kohtz then indicated that he has been through many audits during his time, and typically, if the auditor brings an issue to attention, but does not again during closing, that the issue has been addressed to the auditor's satisfaction. After the intro conference, this alleged Title 298 non-compliance was not discussed again with staff. According to the Director, Policy Manager Tidwell did contact him after the compliance review was completed and asked if the rules have been approved yet. Director Kohtz indicated that the question appeared to be a follow up question to establish as a fact whether or not the adopted rules have been approved to date; there was no mention of a potential finding of non-compliance or that there was an issue if the adopted rules were not yet approved. The Director finished his comments by expressing dissatisfaction with this finding as the alleged non-compliance was brought to the Board's attention during its SOA a year ago, and the Board took immediate steps to rectify the issue; getting final approval for the adopted changes to Title 298 is out of the Board's control. Director Kohtz indicated that the Board should have had two years to rectify this alleged non-compliance. Instead, because it did a favor to the ASC, it is being penalized. A question was asked if it was possible that someone could have overridden the initial review submitted by Policy Managers Tidwell and Brown. Director Kohtz responded that it is very much possible as the policy managers are not the final decision makers of the findings; the actual subcommittee is responsible for this. Director Kohtz informed the Board that he has already received confirmation from AAG Schultz that the adopted Title 298 will be approved by the AG's office once the amendment is adopted by the Board, and that he has discussed the matter with the Governor's Policy and Research Office to see if it can expedite the approval. The preliminary compliance review reports will be presented to the Board at its May meeting, at which time the Director hopes to have the adopted changes to Title 298 approved. If not, the Board must begin crafting its response to the finding of alleged non-compliance with Title XI in the AMC Program Preliminary Compliance Review Report.

The Director then brought attention to the Credentialing and Registration section and indicated that a report has been prepared for the Board's review at this meeting concerning the goal to explore changes to real property appraiser credential renewal dates.

Director Kohtz then guided the Board to the Education section, and noted that during the strategic planning held on June 15, 2022, the Board discussed the consistent deficiencies it was seeing in USPAP Compliance Review Reports concerning agricultural real property, and the effect that a lack of ag-specific appraisal education may have on those who prepare these reports. During this meeting, the Board set a goal to send a letter to the American Society of Farm Managers and Rural Appraisers ("ASFMRA") describing the real property appraisal practice deficiencies observed by the Board concerning the appraisal of agricultural real property and request that the provider consider increasing its frequency and availability of synchronous, asynchronous, and hybrid qualifying and continuing education offerings. The Director noted that, during the time between the strategic planning and now, ASFMRA has substantially increased the number of education offerings approved by the Board. The Director then asked the Board if this letter was still needed.

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After discussion, the Board decided that this letter to ASFMRA is no longer needed. Board Member Downing asked if the letter to supervisory real property appraisers would still be sent. Director Kohtz remarked that staff plans to draft a letter to supervisory real property appraisers and brought attention to the email sent regarding report deficiencies to be addressed in the letter. The Director requested that board members provide a response to that email providing deficiencies that they would like included in the letter.

Director Kohtz then moved on to the Public Information section and informed the Board that the goal to explore adding disciplinary action orders/consent agreements to the Appraiser Listing search as a PDF attachment was discussed at the March meeting, but Board Member Hermesen asked that it be discussed again at the April meeting, and it is on the agenda.

Finally, the Director brought attention to the Administration section and remarked that the goal to explore use of Federal grant money to pursue development of a translator system between the NRPAB Database and the ASC Federal Registry system is likely not going to be achieved. Director Kohtz informed the Board that another update was requested on April 11, 2023. A response was received from CIO indicating that the programming code used by the ASC is not compatible with the Board's programming code and there is no way to build a direct translator. The Director indicated that CIO is reviewing translation options that may involve a subscription service, but it is not sure that this is even a feasible option. Director Kohtz shifted focus to the goal to complete online AMC renewal applications and upgrade to AMC interface in the NRPAB Database, and reported that this project is still in progress. According to the Director, if the current progress continues, this project will come in around \$10,000 under budget.

The Director asked for any additional questions or comments on the 2022-23 NRPAB Goals and Objectives and SWOT Analysis update. Chairperson Walkenhorst thanked Director Kohtz for the report. There was no further discussion.

J. FINANCIAL REPORT AND CONSIDERATIONS

1. APPROVAL OF MARCH RECEIPTS AND EXPENDITURES

The receipts and expenditures for March were presented to the Board for review in the Budget Status Report. Director Kohtz brought attention to the Data Processing Expense in the amount of \$7,970.67 and noted that this expenditure is primarily due to the AMC Online Renewal Application and NRPAB Database AMC Interface Update Project. The Director then moved on to the Conference Registration expense of \$550.00, and the reported that this expenditure is for payment of the Director's 2023 Spring AARO Conference attendance. According to Director Kohtz, the Voice Equip expense of \$24.21 is for a headset for the Director's computer. The Director then moved on to the SOS Temp Serv-Personnel expense of \$869.42, and remarked that amount is for BEPM Sims' brief employment as an SOS temporary employee before transferring to being an agency employee.

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Director Kohtz indicated that the expenditures for the month of March totaled \$32,709.44, and the year-to-date expenditures for the fiscal year are \$283,609.13, which amounts to 59.04 percent of the budgeted expenditures for the fiscal year; 75.07 percent of the fiscal year has passed. The Director asked for any questions or comments. There was no further discussion.

The Director turned the Board's attention to revenues, and informed the Board that the revenues for the month of March were \$22,989.19, and that the year-to-date revenues for the fiscal year are \$354,297.84, which amounts to 83.44 percent of the projected revenues for the fiscal year. The Director reiterated that 75.07 percent of the fiscal year has passed. The Director then asked for any questions or comments. There was no further discussion.

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

The Director presented four graphs showing expenses, revenues, and cash balances. Director Kohtz once again pointed out the expenditures and revenues for the month of March for the Real Property Appraiser Program, which includes both the Appraiser Fund and the AMC Fund. The Director reported that the Real Property Appraiser Fund revenues for the month of March totaled \$9,773.63, the Real Property Appraiser Fund expenses totaled \$20,009.73, the AMC fund revenues totaled \$13,188.40, and the AMC expenses totaled \$12,699.71. The Director remarked that the cash balance for the AMC fund is \$337,009.80, the Appraiser Fund is \$451,390.39, and the overall cash balance for both funds is \$788,400.19. The Director asked for any questions or comments. There was no further discussion.

Board Member Downing moved to accept and file the March 2023 financial reports for audit. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and asked for any discussion. With no discussion, Chairperson Walkenhorst called for a vote. The motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

2. PER DIEMS

Director Kohtz informed the Board that he has 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 Walkenhorst asked for any public comments. No members of the public were present. With no comments, Chairperson Walkenhorst moved on to Consideration of Education/Instructor Requests.

L. CONSIDERATION OF EDUCATION/INSTRUCTOR REQUESTS

Chairperson Walkenhorst invited BEPM Sims to provide a summary of the education and instructor matter for consideration by the Board. BEPM Sims presented an Application for Approval as a Continuing Education Activity in Nebraska for the OREP Education Network activity titled, "Appraiser Liability and Risk Management," and reported that the provider submitted the materials with learning objectives deemed deficient in accordance with the requirements found in Title 298. After several attempts to contact the education provider to rectify the deficiency, BEPM Sims sent a letter requesting that the deficiency be rectified and informing the education provider that the application will go before the Board if not rectified timely. Director Kohtz recommended that the application be denied, clearing it from the Board's backlog. Board Member Downing moved to deny the application for the OREP Education Network activity titled, "Appraiser Liability and Risk Management," for the failure to provide adequate learning objectives as required in 298 NAC Chapter 6, § 003.02A.2d. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and asked for any discussion. With no discussion, Chairperson Walkenhorst called for a vote. The motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

M. UNFINISHED BUSINESS

1. DISCIPLINARY HISTORY ADDED TO "NEBRASKA CREDENTIALLED REAL PROPERTY APPRAISERS" AND "NEBRASKA REGISTERED AMCs" TAB ON NRPAB WEBSITE

Director Kohtz brought attention to the Board's discussion at its March 16, 2023 meeting regarding the 2022-23 strategic planning goal to add disciplinary history to the "Nebraska Credentialed Real Property Appraisers" and "Nebraska Registered AMCs" tab on the NRPAB Website. The Director reminded the Board that it approved the amount of \$4,500.00 for the development and implementation of the project as presented in User Story 25090 to add disciplinary history documents to the "Nebraska Credentialed Real Property Appraisers" search tab and "Nebraska Registered AMCs" search tab on the NRPAB website. After the meeting Board Member Hermesen notified Director Kohtz that he would like for this item to be discussed again at the April meeting. The Director promptly responded to the email that the green light to CIO would be rescinded and this matter would go back on the agenda for discussion. Board Member Hermesen indicated that he received a phone call shortly after the March meeting characterizing this as a "Scarlet Letter" and is fearful that it may have unintended, negative consequences. Director Kohtz informed the Board that he has put a lot of thought into this in preparation and has developed a concept that may alleviate the "Scarlet Letter" concerns. The Director recommended that a field be added at the end of the Nebraska Credentialed Real Property Appraisers and Nebraska Registered AMCs search tabs that is titled, "Disciplinary Action History." The box for that specific real property appraiser or AMC would include a hyperlink that says "yes" or "no." If a "no" hyperlink is selected, a popup message would say, "No disciplinary action records exist for this real property appraiser." If a "yes" hyperlink is selected, a popup message would prompt the requestor to enter their name, contact information, and email address to receive the disciplinary action records for the real property appraiser.

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An automated email would be sent to the nrpab.compliance@nebraska.gov email folder indicating that a request has been made. Staff would then attach the pdf files and submit the response back to the requestor, which would be auto logged in the database under the real property appraiser. The Director pointed out that this is a rough concept and asked for any questions or comments. Board Member Hermesen expressed concern regarding the benefits of providing the disciplinary history of an appraiser to the public. Director Kohtz responded that disciplinary history is a matter of public record. These records cannot be withheld from the public. The idea behind the revised concept is to streamline the records request process and eliminate the work associated with disciplinary action public records requests where no such record exists. There are certain requirements that must be met for a public records request and staff can spend a lot of time engaged in this work. BLPM Nespore displayed the Board's current enforcement reporting document found on the Board's website. The Director stated that this document contains enforcement actions taken by the Board during the past ten years. Director Kohtz acknowledged that it has not had to be updated for a while, so it should be updated in the near future. The Director also informed the Board that this document would be removed from the website as it would no longer serve a purpose if the Board were to move forward with this project. Director Kohtz was asked what disciplinary action records would be received with a public records request. Director Kohtz responded that it would be any official disciplinary action taken by the Board, so it would be a copy of an order issued by the Board, or a consent agreement between the Board and the respondent. Things like advisory letters, where the grievance is dismissed, would not be included. The Director indicated that, if the Board would like to proceed, a new challenge is getting this project completed before the end of the fiscal year and keeping it within the approved budget. Director Kohtz asked if the Board would like to hold the project. After more discussion, the Board agreed to move forward with the approved project with the modifications recommended by the Director. Director Kohtz reminded the Board that he does not know how the modifications would affect the estimate, so if there is a significant increase, the new estimate will be brought back to the Board for approval, but if the modifications can be completed with little or no change in cost, then the greenlight will once again be provided to CIO work on this project. The Board agreed with this. There was no further discussion.

2. OPEN AT-LARGE LICENSED REAL ESTATE BROKER POSITION

Director Kohtz reported that there has been one applicant for the open At-Large Licensed Real Estate Broker to date and asked the Board if it had any comments or feedback to pass along to the Governor's office regarding this applicant. There were no comments during the meeting. Director Kohtz reminded board members to let him know at any time if there were any comments or feedback to provide to the Governor's office concerning this appointment. There was no further discussion.

N. NEW BUSINESS

1. REPORT ON EXPIRATION DATE CHANGE FOR NEBRASKA REAL PROPERTY APPRAISERS_APRIL 5, 2023

Director Kohtz presented a document titled, "Report on Expiration Date Change for Nebraska Real Property Appraisers_April 5, 2023" to the Board for review. The Director provided a brief summary of the report and indicated that, much like in 2017, the most logical option for the Board to make a change to the expiration date for real property appraisers would be moving all credential holders to a two-year renewal that matches with the existing continuing education period. In 2017, the Board had many discussions regarding this idea, but could not reach a consensus on proceeding. The main concern was that real property appraisers would want to maintain the ability to renew their credentials for one year. The Director then moved on to the proposed option to standardize a one-year real property appraisal renewal period, and stated that the standardization of the one-year real property appraisal renewal period would drastically reduce staff efficiency. Instead of processing approximately 565 real property appraiser renewals for odd number years and 455 real property appraiser renewals for even numbered years, approximately 675 renewal applications would be processed each year. As noted in the support for adding an additional fulltime equivalent teammate, the State's temporary SOS staffing program has become unreliable for the Board's purposes. In addition, the Board is utilizing its full appropriation for overtime and unused per diem funds to complete the current work. Standardizing a one-year renewal period would not resolve any of the issues. Director Kohtz then brought attention to the proposed options to standardize a two-year real property appraisal renewal period. According to the Director, the standardization of a two-year renewal period utilizing the current continuing education period, would result in increased staff efficiency; be feasible to implement; easy to maintain; require only a minor law change; cause no disruption to the current continuing education period for real property appraisers; allow for continued compliance with Title XI and the Criteria; be based on verifiable data; and allow for an easy to define transition process. Instead of processing approximately 565 real property appraiser renewals for odd number years and 455 real property appraiser renewals for even numbered years, approximately 294 real property appraiser renewals would be processed for odd number years and 431 real property appraiser renewals would be processed for even number years. All of the other two-year real property appraiser renewal options studied revealed significant implementation or maintenance feasibility issues. Director Kohtz also indicated that another option for the Board to consider would be to remove the November 30th real property appraiser due date or move it up in the year to October 31st, to allow for a longer period for staff to process real property appraiser renewal applications. BLPM Nespor expressed support for this idea. Chairperson Walkenhorst declared that he was impressed with the level of information gathered. Board Member Gerdes referenced the graph displaying different options for standardized two-year real property appraisal renewal and declared that the logistical benefit to switching to the standardized two-year renewal period is clear. Gerdes also expressed skepticism regarding the effect that moving the due date from November 30th to October 31st would have from his perspective as a real property appraiser as the \$25.00 late processing fee is not a major deterrent to being late.

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Board Member Hermesen expressed support for moving up the due date, but added that not everyone would be interested in changing from a one-year period to the two-year period, especially for those who are employees of companies or those nearing retirement. The Director shifted the conversation and brought attention to the Board's pending Biennial Budget Request, and informed the Board that what is done in response to this report would depend on what funds the legislature appropriates to the Board. Board Member Downing asked when the Board would know more about the staffing makeup for the next fiscal year. BLPM Nespor displayed the online legislative calendar and indicated that the last day of the legislative session is scheduled for June 9 of this year. Director Kohtz stated that the budget information should be known by July and asked if the topic should be discussed at strategic planning. Chairperson Walkenhorst requested that this discussion be tabled until the July meeting. The Director asked for any questions or comments. There was no further discussion.

O. LEGISLATIVE REPORT AND BUSINESS

1. 108th LEGISLATURE (1ST REGULAR SESSION) BILLS OF NRPAB INTEREST

Director Kohtz presented the fourth legislative report of the current session to the Board for review. The following bills were discussed:

LB214 – The Director reported that the provisions of LB214 were amended into AM398 and placed on General File as a Committee priority bill. AM1026 strikes Section 6 and adds a new Section 6 with language changes. There was no further discussion.

LB461 – The Director reported that AM1065 strikes Amendment 2 of AM389 and adds language removing all state agency exemptions, except for the University of Nebraska, and defines state agency director. AM1067 strikes Amendment 7 of AM389 and adds a requirement that any contract that the state enters into for personal property or services must include language preventing discrimination against its employees on the basis of race, color, religion, national origin, ancestry, citizenship, gender, sexual orientation, gender identity, disability, or special education status. The Director noted that these amendments would have no effect on the Board. There was no further discussion.

LB637 – The Director reported that this bill has been placed on General File as of March 22, 2023. There was no further discussion.

LB684 – The Director reported that AM808 inserts, “that has previously conducted an efficiency review or study for another state,” on page 2, line 2, after “entity.” There was no further discussion.

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

2. Title 298

a. Amendment to November 17, 2022 Adopted Changes to Title 298

Director Kohtz informed the Board that the Attorney General's Office requested that the Board adopt an amendment to the changes to Title 298 adopted by the Board on November 17, 2022, moving the authority for establishing the subcommittee in 298 NAC Chapter 2, § 002.13 from the director to the Board. The Director presented the amended language to the Board for consideration that strikes "Director" and adds "Board" between "the" and "for" on the fifth line of 002.13. Chairperson Walkenhorst asked if these become standing subcommittees. The Director responded "yes" to this question. Board Member Downing asked if this change would have any effect on who completes the review of an applicant's experience. Director Kohtz responded that due to the nature of the Board's makeup, it would be the same board members selected for review of an applicant's experience, depending on the types of reports, as it would be if the Director was making the selections. Chairperson Walkenhorst asked for any other discussion. With no further discussion, Chairperson Walkenhorst asked for a motion. Board Member Downing moved to adopt the amendment to the November 17, 2022 adopted changes to Title 298 as presented. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and asked for any discussion. With no discussion, Chairperson Walkenhorst called for a vote. The motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

3. OTHER LEGISLATIVE MATTERS

a. REQ2251 – Interim Study of Real Property Appraiser Act and Appraisal Management Company Registration Act

Director Kohtz presented Legislative Resolution REQ2251 concerning an interim study to examine whether the Real Property Appraiser Act or the Nebraska Appraisal Management Company Registration Act should be updated and to review the credentialing requirements in the Real Property Appraiser Act in furtherance of the purpose of the Occupational Board Reform Act. The Director reported that this is the standard resolution that gives the Banking, Commerce, and Insurance Committee legal counsel the authority to work with the Board on bill drafting. The Director asked for any questions or comments. There was no discussion.

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS: No discussion.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

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

Q. OTHER BUSINESS

1. BOARD MEETINGS

a. 2023 Strategic Planning

Director Kohtz brought attention to the annual strategic planning meeting and informed the Board that this usually takes place around the regular meeting in June, which is on June 15th this year. Board Members Gerdes and Hermesen both indicated that they would be out of town during this week. Board Member Gerdes offered his availability to attend the meeting virtually. Board Member Hermesen asked if the strategic planning, as well as the regular board meeting, could be moved to the next week as he would be available again. Director Kohtz expressed support for this idea and informed the Board that it would give staff an extra week to prepare for the two meetings. Board Member Downing noted that last year, the Board scheduled the strategic planning meeting in the afternoon the day before the regular meeting, which significantly helps with travel. After further discussion, Board agreed to schedule the strategic planning meeting for June 21, 2023 at 2:00 p.m. and move the regular June meeting to June 22, 2023 at 9:00 a.m. Chairperson Walkenhorst called for two motions to set the strategic planning meeting and the June regular meeting. Board Member Downing moved to set the strategic planning meeting for June 21, 2023 at 2:00 p.m. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and asked for any discussion. With no further discussion, Chairperson Walkenhorst called for a vote. The motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye. Board Member Downing moved to set the regular June meeting for June 22, 2023 at 9:00 a.m. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and asked for any discussion. With no further discussion, Chairperson Walkenhorst called for a vote. The motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

2. CONFERENCES/ EDUCATION: No discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER

a. Spring 2023 Edition of the Nebraska Appraiser

Director Kohtz presented the Spring 2023 Edition of The Nebraska Appraiser to the Board for consideration. The Director asked for any questions or comments. Chairperson Walkenhorst commented that it looks good. With no further discussion, Chairperson Walkenhorst asked for a motion. Board Member Downing moved to approve the Spring 2023 Edition of The Nebraska Appraiser as presented. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and asked for any discussion. With no discussion, Chairperson Walkenhorst asked for a vote. The motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

5. APPRAISAL SUBCOMMITTEE

a. ASC Notice for Comment – Information Collection Request – Appraiser Profession Survey

Director Kohtz presented an email with the subject, “ASC Notice Comment – Information Collection Request – Appraiser Profession Survey” to the Board for review. The Director informed the Board that he had no specific comments, and asked for any questions or comments. There was no further discussion.

b. ASC Quarterly Meeting: June 14, 2023 (Online)

Director Kohtz informed the Board that the next ASC quarterly meeting to be held on June 14, 2023. The Director asked for any questions or comments. There was no further discussion.

c. ASC Public Hearing Related to the Topic of Appraisal Bias: May 19, 2023

Director Kohtz informed the Board that the ASC will hold a public hearing related to the topic of appraisal bias on May 19, 2023. The Director asked for any questions or comments. There was no further discussion.

d. Statement by the ASC Executive Director Jim Park on the One-Year Anniversary of the PAVE Task Force

Director Kohtz presented the ASC press release, “Statement by the ASC Executive Director Jim Park on the One-Year Anniversary of the PAVE Task Force” to the Board for review. The Director informed the Board that he had no specific comments, and asked for any questions or comments. There was no further discussion.

e. ASC Staff comments on the First Exposure Draft of RPAQC

Director Kohtz presented a letter from the ASC Staff to Brad Swinney, Chair of the Appraiser Qualifications Board, commenting on the First Exposure Draft of proposed changes to the Real Property Appraiser Qualifications Criteria, to the Board for review. The Director brought attention to the ASC comment indicating that the proposed Criteria made reference to a 2-year CE cycle, which is a new concept. The ASC requests that the AQB’s intent is clear as to whether it intends to implement a 2-year CE cycle. The ASC also expressed concern regarding the January 1, 2026 effective date. Specifically, that it does not allow sufficient time for States to require the valuation bias and fair housing course, and change the title from 7-Hour National USPAP Update Course to 7-Hour National USPAP Continuing Education Course. Many States have specific references in law or regulation, so codifying the title of this course in statute or regulation will respectively require enacting legislation or performing notice and comment rulemaking. The Director also brought attention to the ASC’s comments concerning the valuation bias and fair housing course content. The ASC staff is concerned that the valuation bias and fair housing course contains complex material that is not traditionally part of appraiser training and will require expertise to review the courses at the State level or through the Course Approval Program. The ASC Staff recommended that the AQB employ experts to review the national and the State specific components of the courses for CAP. Director Kohtz indicated that he appreciates that the ASC brought attention to these concerns. The Director asked for any questions or comments. There was no further discussion.

f. ASC November 16, 2022 Meeting Minutes

Director Kohtz presented the ASC November 16, 2022 Meeting Minutes to the Board for review. The Director informed the Board that he had no specific comments, and asked for any questions or comments. There was no further discussion.

6. THE APPRAISAL FOUNDATION

a. Fifth Exposure Draft of Proposed Changes to USPAP

Director Kohtz presented the Fifth Exposure Draft of Proposed Changes to USPAP to the Board for review. The Director reported that the Fifth Exposure Draft continues to propose omitting all materials relating to supported and unsupported conclusions, and also continues to propose adding a new section within the Ethics Rule titled Nondiscrimination. The proposed Nondiscrimination section begins by prohibiting an appraiser from acting “in a manner that violates or contributes to a violation of federal, state, or local antidiscrimination laws or regulations.” It also highlights the Fair Housing Act, the Equal Credit Opportunity Act, and the Civil Rights Act of 1866. The Nondiscrimination section continues with four additional prohibitions that apply across appraisal disciplines, regardless of whether antidiscrimination laws or regulations also apply. These prohibitions are drawn from federal antidiscrimination protections. The Nondiscrimination section also recognizes that limited circumstances exist where use of a protected characteristic in an assignment would not constitute discrimination and would not violate the Ethics Rule. The Director then turned the Board’s attention to Advisory Opinions 39 and 40. The proposed Advisory Opinion 39 notes that both the Ethics Rule and the Competency Rule require an appraiser to understand and comply with all applicable antidiscrimination laws, whether at the federal, state, or local level. The proposed Advisory Opinion 39 gives further explanation of when an appraiser can violate or contribute to a violation of applicable antidiscrimination law. It provides additional background on the Federal Housing Act, Equal Credit Opportunity Act, and the Civil Rights Act of 1866, and how these laws and their implementing regulations are relevant to appraisal practice. Advisory Opinion 40 provides greater detail on the requirements of applicable antidiscrimination laws and USPAP in the context of residential real property appraisal assignments. The Director stated that Advisory Opinion 40 provides guidance related to the prohibitions on using particular protected characteristics in developing an opinion of value for residential real property assignments and in the research, analysis, and reporting of location-related data, including demographics, for these types of assignments. Director Kohtz informed the Board that the redlined changes begin on page Q.32. The Director asked for any questions or comments. There was no further discussion.

b. Press Release: TAF Shares Updates Ahead of One Year Anniversary of PAVE Task Force Report

Director Kohtz presented the TAF press release titled, “TAF Shares Updates Ahead of One Year Anniversary of PAVE Task Force Report” to the Board for review. The Director informed the Board that he had no specific comments, and asked for any questions or comments.

c. TAF April Newsletter

Director Kohtz presented The Appraisal Foundation's April 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 further discussion.

d. ASB Public Meeting: May 5, 2023 – Virtual

Director Kohtz informed the Board that the Appraisal Standards Board will hold its next public meeting virtually on May 5, 2023. The Director asked for any questions or comments. There was no further 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 applicants CG23003R, CR23002, CR23003, CR22015, CG22009, and CG22024R. Chairperson Walkenhorst asked for motions on CG23003R, CR23002, CR23003, CR22015, and CG22009.

Board Member Downing moved to take the following action:

CG23003R / Rescind approval as certified general real property appraiser and deny application for failure to pay a non-refundable credentialing fee of \$300.00, and an annual Appraiser Registry fee of \$40.00, within thirty days of approval that the applicant may be issued a credential in accordance with 298 NAC Chapter 3, §§ 001.05 and 001.06.

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

Board Member Downing moved to take the following action:

CR23002 / Provide redacted copies of two USPAP Compliance Review Reports obtained by the Board to applicant and request that applicant submit one additional single-family report with a report date after April 20, 2023 that adequately addresses issues identified in the USPAP Compliance Review Reports. Applicant must submit the report to the Board's office within 60 days.

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

Board Member Downing moved to take the following action:

- CR23003 / Provide redacted copies of two USPAP Compliance Review Reports obtained by the Board to applicant and request that applicant rewrite one of the two subject reports to adequately address the issues identified in the USPAP Compliance Review Reports. Applicant must submit the rewritten report to the Board's office within 60 days.**

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

Board Member Downing moved to take the following action:

- CR22015 / Approve to sit for exam and authorize director to issue credential as a certified residential real property appraiser upon providing evidence of successful completion of the national uniform licensing and certification examination and providing the necessary fees.**

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

Board Member Downing moved to take the following action:

- CG22009 / Approve applicant to utilize a different property for development of a report for a non-traditional client that demonstrates all three approaches to value and market supported adjustments with a current date, instead of reappraising property requested by the Board June 16, 2022.**

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: No discussion.

E. CONSIDERATION OF COMPLIANCE MATTERS:

The Board reviewed Grievances 23-01 and 23-02. Chairperson Walkenhorst asked for a motion on Grievance 23-01.

Board Member Downing moved to take the following action:

23-01 / Proceed with investigation for the alleged violation of Neb. Rev. Stat. §§ 76-2237 and 76-2238 (12) and (14).

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

1. 2023.05

The Board reviewed an appraisal report received from the Fannie Mae Loan Quality Center. The Board concluded there were no substantial errors or omissions which lead to non-credible assignment results or USPAP violations; however, the Board requests that real property appraiser take notice of the issues identified by Fannie Mae in the Fannie Mae Loan Quality Center LQC State Tips document. Board Member Downing moved to provide a copy of the Loan Quality Center LQC State Tips document to real property appraiser and request in writing that real property appraiser take notice of the issues identified by Fannie Mae. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and called for a vote. Motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

2. 2023.06

The Board reviewed an appraisal report received from the Fannie Mae Loan Quality Center. The Board concluded there were no substantial errors or omissions which lead to non-credible assignment results or USPAP violations; however, the Board requests that real property appraiser take notice of the issues identified by Fannie Mae in the Fannie Mae Loan Quality Center LQC State Tips document. Board Member Downing moved to provide a copy of the Loan Quality Center LQC State Tips document to real property appraiser and request in writing that real property appraiser take notice of the issues identified by Fannie Mae. Board Member Gerdes seconded the motion. Chairperson Walkenhorst recognized the motion and called for a vote. Motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye.

3. PERSONNEL MATTERS: No discussion.

R. ADJOURNMENT

Board Member Downing moved to adjourn the meeting. Board Member Gerdes seconded the motion. Motion carried with Downing, Gerdes, Hermesen, and Walkenhorst voting aye. At 11:57 a.m., Chairperson Walkenhorst adjourned the April 20, 2023 meeting of the Nebraska Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on April 28, 2023, in compliance with Nebraska Revised Statute § 84-1413 (5).