

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

April 20, 2017 Meeting Minutes

Swearing in of new Board Member Christopher M. A. Mustoe took place prior to the start of the meeting.

A. OPENING

Chairperson Chris Langemeier called to order the April 20, 2017 meeting of the Nebraska Real Property Appraiser Board at 9:05 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 Langemeier 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 in the April 17, 2017 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this state, as required by the Open Meetings Act. The agenda was kept current in the Nebraska Real Property Appraiser Board office and on the Board's website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public, and in accordance with the Open Meetings Act a copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Chris Langemeier, Benjamin Hynek, David Bloxham, and Christopher Mustoe were present. Also present were Director Tyler Kohtz, Compliance and Education Officer Grant Krieger, and Business and Licensing Specialist Allison Nespor.

ADOPTION OF THE AGENDA

Chairperson Langemeier 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 Hynek moved to adopt the agenda as printed. Board Member Bloxham seconded the motion. With no further discussion, the motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

The Nebraska Real Property Appraiser Board will meet in executive session for review of applicants and enforcement matters.

Board Member Hynek 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. Chairperson Langemeier asked for a second. Board Member Bloxham seconded the motion. The time on the meeting clock was 9:08 a.m. The motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

Board Member Hynek moved to come out of executive session at 10:30 a.m. Board Member Bloxham seconded the motion. The motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

Break from 10:30 a.m. to 10:47 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Langemeier welcomed new board member Chris Mustoe to the meeting, and welcomed all other board members, staff, and guests. Diane Moore was the only member of the general public in attendance.

H. BOARD MEETING MINUTES

1. APPROVAL OF MARCH 16, 2017 MEETING MINUTES

Chairperson Langemeier asked for any additions or corrections to the March 16, 2017 minutes. With no further discussion, the Chairman called for a vote. Board Member Hynek moved to adopt the March 16, 2017 meeting minutes as presented. Board Member Bloxham seconded the motion. The motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of April 16, 2017, and directed the Board to page I.4 to draw attention to the total number of licensed and certified appraisers as of April 2017 compared to April 2016. The Director informed the Board that the gap between last year and this year continues to close. The Director then asked for any questions or comments. There was no further discussion.

2. TEMPORARY PERMIT REPORT

Director Kohtz presented three charts outlining the number of temporary permits issued as of March 31, 2017, and asked for any questions or comments. There was no further discussion.

3. SUPERVISORY APPRAISER COUNT REPORT

Director Kohtz presented two charts outlining the number of supervisory appraisers as of April 16, 2017, and asked for any questions or comments. Board Member Bloxham commented, "I wonder if it will trend lower." Director Kohtz indicated that it is hard to tell without knowing the number of trainees that will upgrade to licensed or certified, and those trainees that will not renew. There was no further discussion.

4. AMC COUNT REPORT

Director Kohtz presented two charts outlining the number of AMCs as of April 16, 2017, and asked for any questions or comments. Chairperson Langemeier commented on how consistent the count remains. Director Kohtz indicated that there is always one new organization registering as another turns in its registration. There was no further discussion.

Director Kohtz finished his report by welcoming new Board Member Chris Mustoe, and reported to the Board that Board Member Mustoe came to the office on Monday, April 17, 2017 to go over board member procedures and expectations. Board Member Mustoe also received an update on compliance from CEO Krieger, and was briefed on the application process for credential applicants to help understand how to prepare for the meeting. Director Kohtz asked Board Member Mustoe if he thought the meeting was helpful. Board Member Mustoe responded that it was very helpful, and staff was very courteous and professional.

J. FINANCIAL REPORT AND CONSIDERATIONS – APRIL 2017

1. APPROVAL OF MARCH RECEIPTS AND EXPENDITURES

The receipts and expenditures for March were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz brought attention to the PSL expenses and informed the Board that there were three pay periods during the month of March, which is why the expenditures under these accounts are higher than normal. The Director then mentioned data processing expense, and informed the Board that the phone bills for both February and March are included in this amount. The Director then pointed the Board to the household and institutional expense, and reported that this expense is for the office chair approved by the board. The Director indicated that the educational services expense is for BLS Nespor's registration for the 15-Hour USPAP Course. Director Kohtz then informed the Board that it was double billed for this course, and a refund has been issued. The refund will appear on the April Budget Status Report. Finally, Director Kohtz reported that the Board's insurance, surety and notary bonds have been paid for the next fiscal year. As of the end of March, expenses amount to 55.98 percent of the budgeted expenditures for the fiscal year; 75.07 percent of the fiscal year has passed. The Director asked for any questions related to the Budget Status Report. There was no further discussion.

The Director then asked the Board to focus on the General Ledger for March. The Director informed the Board that the "Correctional Services, Departm" is for the office chair. It was purchased from Cornhusker Industries, which is Correctional Services. Director Kohtz also added that the "Knudsen, Berkheimer, Richardso" expense is for a hearing officer. The Director then asked if the Board had any questions pertaining to the General Ledger. There was no further discussion.

Director Kohtz then presented three graphs showing expenses, revenues, and cash balance. For the Real Property Appraiser Program, which includes both the appraiser fund and the AMC fund, a total of \$35,867.50 in expenditures and \$13,452.24 in revenues were reported.

Board Member Hynek moved to accept and file the March 2017 financial reports for audit. Board Member Bloxham seconded the motion. The motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

2. PER DIEMS

Director Kohtz requested a per diem payment in the amount of \$100.00 for Board Member Langemeier for representing the Board at a March 21, 2017 informal negotiation meeting with Director Kohtz concerning Investigation 15-19. Board Member Bloxham moved to approve the per diem payments as requested for Board Member Langemeier. Board Member Hynek seconded the motion. The motion carried with Hynek, Bloxham, and Mustoe voting aye. Langemeier abstained.

3. LANE RECORDS REQUEST

Director Kohtz presented a public records request to the Board for review. The Director informed the Board that the request was made to obtain information that exists in an electronic format, but is not easily obtainable. Director Kohtz indicated that he consulted with AAG Hart on the validity of the request and the Board's obligation to fulfill it. AAG Hart indicated that the Board must fulfill the request, and should collect money from the person making the request for the time and resources needed to gather and send this information. The Director then pointed to the two options given to Ms. Lane to complete this request; the first option is manual retrieval, and the second option includes updating the database to extract the information and create a report. Ms. Lane chose to proceed with a manual retrieval. Director Kohtz then asked if the Board had any thoughts or guidance regarding this request. The Director informed the Board that it will take a significant amount of time for CEO Krieger to complete this request, and indicated that a six month time frame would be reasonable. The Board agreed with this assessment, and offered that the six month period begins when payment is received. Director Kohtz then asked if the Board had any comments regarding the collection of money. The Board recommended that 50% be collected up front and the final, including shipping costs, should be collected when the work was completed and ready to be sent. Director Kohtz informed the Board that he will proceed with these recommendations.

K. GENERAL PUBLIC COMMENTS

Chairperson Langemeier asked for any public comments. With no comments, the Chair proceeded to Education.

L. EDUCATION

Board Member Hynek moved to approve education activities and instructors as listed:

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Calypso Continuing Education

Appraising Energy Efficient Residential Properties (C21711-I) / 8 Hours – Amy McClellan

House Canary

Real Estate Analytics (C217012) / 7 Hours – Steve O'Brien

The Moore Group

Basic Construction Refresher (C21713) / 7 Hours – Bradford Moore, Diane Moore

Seconded by Bloxham. Chairperson Langemeier called for the vote. The motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

M. UNFINISHED BUSINESS

1. BOARD MEMBER RECOGNITION

Director Kohtz informed the Board that the final proof is under review, then it will be sent back to Cornhusker Industries for the plaque to be made.

2. OPEN 2ND CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION: Chairperson Langemeier declared that this opening is filled.

3. OPEN 3RD CONGRESSIONAL DISTRICT CERTIFIED REAL PROPERTY APPRAISER REPRESENTATIVE POSITION: No update.

N. NEW BUSINESS

1. HOUSE CANARY ANALYTICS CLASS AT UNO

Director Kohtz brought attention to the House Canary Analytics Class that is planned at the University of Nebraska at Omaha on Friday, August 25, 2017. The Director informed the Board that he has worked with David Beberwyk at UNO to get this put together, and the activity will be offered at no cost to appraisers. Director Kohtz indicated that he will continue to work with Mr. Beberwyk and Mr. O'Brien to get the activity in place, and the activity will be included on the Board's "Upcoming Education Activities" list. The Director asked the Board what additional support it would like to offer for this activity. The Board recommended that a contact list be provided to Mr. O'Brien to allow him to advertise the activity as he sees fit. The Director informed the Board that he will put a list together for Mr. O'Brien.

2. USPAP BOOK HOLDING ACCOUNT

Director Kohtz presented an email sent to Jerry Broz, Administrator for State Accounting, inquiring about a USPAP Book Liability Account. The Director informed the Board that Mr. Broz wrote back and informed him that he will look into this request. There was no further discussion.

O. LEGISLATIVE REPORT AND BUSINESS

1. CURRENT LEGISLATION

Director Kohtz presented the legislative report of the current session to the Board for review, and informed the Board that he will not discuss the less critical bills unless a board member requests discussion.

LB17 – The last word from Senator Craighead's office was that LB17 will be included on the Consent Agenda this session.

Director Kohtz informed the Board that LB85, LB140, LB184, LB185, and LB186 have all been approved by the Governor and will be removed from the Legislative Report. The Director then reported that LB530 has been indefinitely postponed, and asked if the Board would like this bill removed from the list. The Board requested that LB530 be removed as well.

Director Kohtz finished the legislative report by asking if any members had any other bills that they would like to discuss. There were no additional bills offered and no further discussion.

2. OTHER LEGISLATIVE MATTERS

Director Kohtz asked the Board if it had any other legislative matters that it wished to discuss. There was no further discussion.

P. BOARD POLICIES AND PROCEDURES

1. GUIDANCE DOCUMENTS

a. LB867 Summary

Director Kohtz presented a memo from the Office of the Attorney General to all state officials, agencies, boards, and commissions regarding the LB867 changes to the Administrative Procedure Act, operative on January 1, 2017, to the Board for review. The Director reminded the Board that Board Policies can no longer be utilized. The Director provided a definition of "Guidance Document" and "Internal Procedural Document," and informed the Board that one of these types of documents must be issued in lieu of a Board Policy. The issuance of a Guidance Document includes a defined approval process laid out in LB867. In addition, LB867 includes provisions relating to the request or repeal of a Guidance Document. There was no further discussion.

b. Guidance Document Template

Director Kohtz presented a Guidance Document template to the Board for consideration. The Director informed the Board that he ran variations by AAG Hart as he developed the template. AAG Hart advised against including any information not required for a Guidance Document. The Director finished by informing the Board that the goal is to state the issue, provide reasoning for the Guidance Document, and finish by providing the actual guidance. Director Kohtz asked if the Board had any questions or recommendations concerning the template. With no discussion, Chairperson Langemeier called for a vote to approve the template. Board Member Bloxham moved to approve the Guidance Document template as presented. The motion was seconded by Hynek, and carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

c. Guidance Document 17-01

Director Kohtz presented the proposed Guidance Document 17-01 to the Board for consideration. The Director informed the Board that he typically would not have a template and an actual document that requires a template approved in the same meeting, but Guidance Document 17-01 is needed for the Board's response to the ASC Preliminary Review Report. Board Member Bloxham asked if only a rule change is needed to permanently correct this matter. The Director informed the Board that a rule and statute change is needed. The rule change can come very soon, and the statute change can be included in the USPAP update bill next year. Chairperson Langemeier asked Director Kohtz to check to see if it would be possible to include the statute change as an amendment to LB17. Director Kohtz informed the Board that he will check on this. Chairperson Langemeier asked for any more discussion. With no more discussion, Chairperson Langemeier asked for a motion. Board Member Hynek moved to approve Guidance Document 17-01 as presented. Seconded by Bloxham, and carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

2. BOARD POLICIES

Director Kohtz informed the Board that the final action needed by the Board to close out the board policies is to address the current board policies. The Director presented the current board policies to the Board with a recommendation to retire, issue a Guidance Document, or move to an Internal Procedural Document. Chairperson Langemeier asked if the Director could put a document together showing the basis for each recommendation. The Chair continued by asking if, for example, a board policy was moved or is no longer needed, and if so, why it is no longer needed. The Director informed the Board that he will have this document prepared for the May meeting.

3. EDUCATION APPLICATIONS

Director Kohtz presented the "Application for Seven-Hour Supervisory Appraiser and Trainee Course" to the Board for consideration. With no discussion, Chairperson Langemeier asked for a motion. Board Member Mustoe moved to approve the Application for Seven-Hour Supervisory Appraiser and Trainee Course as presented. Seconded by Hynek, and carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

4. EDUCATION BOARD REVIEW FORMS

Director Kohtz presented the “Qualifying Education Board Review Form,” “Continuing Education Board Review Form,” “Seven-Hour Supervisory Appraiser Board Review Form,” and “Instructor Board Review Form” to the Board for consideration. The Director first pointed to the “Qualifying Education Board Review Form,” informed the Board that he recommends that IDECC approval be removed from this form, and also that he thought that a change is needed for the check box locations. It was recommended by the Board that the check boxes be left justified to be easier to read. Board Member Bloxham asked if this is the same information found on the application. Director Kohtz responded, “Technically, yes this is the same information.” Board Member Bloxham asked, “Why are we duplicating information?” Director Kohtz informed the Board that the information is not being duplicated. When an application is received, it is not vetted; an education provider can complete the application any way that is seen as fit. The goal of the board review forms is twofold; first, it is used as a guide as staff reviews the submitted documentation and second, it provides a quick summary for the Board when reviewing a course. Board Member Bloxham asked why the Board could not just look at the application; staff can just sign off on the application, or a “For Staff Use Only” section can be added to the application. The Director responded, “It can be, but I want to make sure that the appropriate review is still being completed. I am concerned that going this direction could lead to missing important information.” Board Member Hynek offered that the reviewer can just initial the application when the review is completed. Director Kohtz informed the Board that the forms will be updated to reflect the Board’s requests. Chairperson Langemeier indicated that no action is needed.

5. OTHER EDUCATION MATTERS

Director Kohtz brought attention to continuing education activity renewals and informed the Board that the changes in Title 298 defined when an education activity must be resubmitted. Under the old rules there was no clarity between resubmitting an activity because of certain conditions or renewing an activity. The Director continued by saying because it is now clear when an activity must be resubmitted for approval, it is also very clear that the five year renewal of an existing education activity is for those activities that have had no changes since their original approval by the Board. Director Kohtz asked if the staff could approve the five year renewal of education courses administratively; this would be similar to appraiser renewals. The Director was asked what would happen if an application for renewal was submitted for a course that did include significant changes. The Director informed the Board that the renewal application would go before the Board with an explanation. The Board agreed that education activity renewals can be completed by staff. Board Member Bloxham moved to authorize staff to complete administrative approval of the five year renewal of continuing education activities provided that no changes to the activity have taken place since approval by the Board. The motion was seconded by Mustoe, and carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

6. OTHER WEBSITE MATTERS

Director Kohtz brought attention to the enforcement area on the website, and explained that CEO Krieger was updating the language in this section to reflect the updates made in Title 298. The Director then informed the Board that the information contained on the website has been used against the Board in the past, and it may be a better idea to remove all the language found in this section and just include the directions for filing a grievance. Chairperson Langemeier recommended that no language be included in this area; just the documents. The Board agreed with the Chairperson’s recommendation. Board Member Hynek moved to update the enforcement section of the website to remove all existing language. The motion was seconded by Bloxham, and carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

Break from 12:06 p.m. to 12:15 p.m.

Q. OTHER BUSINESS

1. BOARD MEETINGS

a. Strategic Planning Meeting – May

Chairperson Langemeier requested that consideration be given to moving strategic planning from June to May. The Chair continued by saying that with all the change on the Board, it would be good to put the past into perspective and build toward the future. Chairperson Langemeier asked for recommendations. After discussion, the Board agreed to hold strategic planning on May 11, 2017 at 9:00 a.m. Director Kohtz asked that the regular meeting be moved back a week to allow for more time for staff preparation. The Board agreed to move the regular May meeting to May 24, 2017. Board Member Hynek made a motion to set the strategic planning meeting for May 11, 2017 at 9:00 a.m., and move the May 18, 2017 meeting to May 24, 2017 at 9:00 a.m. The motion was seconded by Bloxham, and carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

2. CONFERENCES/EDUCATION

a. Kohtz Spring AARO Conference Report

Director Kohtz attended the Spring AARO Conference from April 7th through 9th in Tampa, Florida. The Director provided a detailed summary of the conference for the board members to review. There was no further discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE

a. ASC Preliminary Report

Director Kohtz presented the Appraisal Subcommittee's preliminary report to the Board for review and informed the Board that there were no surprises included in the report. The Board agreed with this assessment.

b. Draft Response to ASC Preliminary Report

Director Kohtz presented a draft response to the ASC Preliminary Report to the Board for consideration. With no further discussion, Board Member Bloxham moved to approve the response to the ASC Preliminary Report as presented. The motion was seconded by Hynek, and carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

6. APPRAISAL FOUNDATION

a. The Appraiser Qualifications Board Third Exposure Draft of Proposed Changes to the Real Property Appraiser Qualifications Criteria

Director Kohtz presented the Appraiser Qualifications Board's "Third Exposure Draft of Proposed Changes to the Real Property Appraiser Qualifications Criteria" to the Board for review and summarized the changes between the last and current exposure draft. Chairperson Langemeier indicated that no action is needed at the present time because there will likely be more meetings. There was no further discussion.

7. IN THE NEWS

a. Appraisal Buzz Article – Appraiser Independence Key to Veterans' Home Loans

Director Kohtz presented an Appraisal Buzz Article titled "Appraiser Independence Key to Veterans' Home Loans" to the Board for review. The Director informed the Board that he had no specific comments, but it is interesting information. There was no further discussion.

b. Appraisal Institute U.S. Appraiser Population Estimates_2007 through 2016

Director Kohtz presented a document titled “U.S. Appraiser Population Estimates_2007 through 2016” to the Board for review. The Director informed the Board that he had no specific comments, but the information contained in the charts is interesting. There was no further discussion.

C. CONSIDERATION OF APPLICANTS AS NEBRASKA REAL PROPERTY APPRAISER

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

- T17004 / Approve as Trainee Real Property Appraiser; Send advisory letter Informing Applicant that a Supervisory Appraiser registered with the Board is required prior to engaging in real property appraisal practice for experience credit acceptable for credentialing.**
- T17005 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check. Send advisory letter informing applicant that a Supervisory Appraiser registered with the Board is required prior to engaging in real property appraisal practice for experience credit acceptable for credentialing.**
- T17003 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check. Send advisory letter informing applicant that a Supervisory Appraiser registered with the Board is required prior to engaging in real property appraisal practice for experience credit acceptable for credentialing.**

SA-T2014031 / Approve as Supervisory Appraiser.

SA-T2016011 / Approve as Supervisory Appraiser.

Approve all renewal applications received at the Board’s office postmarked between March 15, 2017 and April 18, 2017 with advisory letters.

Board Member Bloxham seconded the motion. Motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: None

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Hynek moved to take the following enforcement actions:

- 16-02 / Ongoing.**
- 16-11 / Ongoing.**
- 16-18 / Dismiss without prejudice; send advisory letter.**
- 17-02 / Ongoing.**
- 15-19 / Dismiss without prejudice; send advisory letter.**
- 16-07 / Close**

Board Member Bloxham seconded the motion. Motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye.

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

An anonymous letter expressing concern with use of a certain MLS by trainee real property appraisers was discussed.

Personnel matters were discussed.

R. ADJOURNMENT

Board Member Hynek moved to adjourn the meeting. Board Member Bloxham seconded the motion. Motion carried with Hynek, Bloxham, Mustoe, and Langemeier voting aye. At 12:28 p.m. Chairperson Langemeier adjourned the April 20, 2017 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on April 27, 2017, in compliance with Nebraska Revised Statute §84-1413 (5).