

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

February 15, 2018 Meeting Minutes

A. OPENING

Chairperson Ben Hynek called to order the February 15, 2018 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 Hynek 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 February 12, 2018 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 Benjamin Hynek, Christopher Mustoe, Gary McCormick, David Hartman, and Chris Langemeier 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 Hynek 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 Langemeier moved to adopt the agenda as printed. Board Member Mustoe seconded the motion. With no further discussion, the motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

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

Board Member Mustoe 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 Hynek asked for a second. Board Member McCormick seconded the motion. The time on the meeting clock was 9:02 a.m. The motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

Board Member Hartman moved to come out of executive session at 9:14 a.m. Board Member Mustoe seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

Break from 9:14 a.m. to 9:30 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Hynek welcomed all to the meeting. Roger Morrissey and Diane Moore were the only members of the general public in attendance.

H. BOARD MEETING MINUTES

1. APPROVAL OF JANUARY 18, 2018 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the January 18, 2018 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Mustoe moved to adopt the January 18, 2018 meeting minutes as presented. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of February 15, 2018, and 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 January 31, 2018, 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 February 15, 2018, and asked for any questions or comments. There was no further discussion.

4. AMC COUNT REPORT

Director Kohtz presented two charts outlining the number of AMCs as of February 15, 2018, and asked for any questions or comments. There was no further discussion.

J. FINANCIAL REPORT AND CONSIDERATIONS – FEBRUARY 2018

1. APPROVAL OF JANUARY RECEIPTS AND EXPENDITURES

The receipts and expenditures for January were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz brought attention to the personal services expenditures and informed the Board that the increase in expenditures is due to an extra pay period during the month of January. The Director then informed the Board that, without bringing attention to the typical monthly expenditures, expenditures also include a quarterly assessment of \$44.50 for human resource management systems, SOS temporary services in the amount of \$2,721.43 for appraiser credential renewal processing assistance, and educational services in the amount of \$109.00 related to investigation #17-07. As of the end of January, expenses amount to 42.16 percent of the budgeted expenditures for the fiscal year; 58.90 percent of the fiscal year has passed. Director Kohtz then pointed the Board to the revenues, and informed the Board that the credential renewal revenues are close to the projections in total. The Director finished by stating that no revenues have been received for the licensed residential real property appraiser credential to date, which is surprising. The Director asked for any questions related to the Budget Status Report. There was no further discussion.

The Director then brought attention to the General Ledger for January, and informed the Board that he had no comments. 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 \$32,853.11 in expenditures and \$27,577.93 in revenues were reported.

Board Member Mustoe moved to accept and file the January 2018 financial reports for audit. Board Member Hartman seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

2. 2018 AARO MEMBERSHIP DUES

Director Kohtz presented the invoice for the 2018 AARO dues, and asked if the Board would like to renew its AARO membership. Board Member Mustoe moved to approve the 2018 AARO Membership dues as presented. The motion was seconded by McCormick, and carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

3. ADOBE ACROBAT SUITE

Director Kohtz presented a pricing proposal in the amount of \$991.44 for three licenses of Adobe Acrobat Pro 2017 to the Board for review. The Director informed the Board its current version was purchased in 2012, and Adobe is no longer supporting this version. Director Kohtz continued to say that Adobe had to assist with a work-around to have the 2012 version installed on BLS Nespor's computer. The Director requested approval to purchase three new licenses of Adobe Acrobat Pro. Board Member Mustoe moved to approve the three licenses of Adobe Acrobat Pro 2017 as presented. The motion was seconded by Hartman, and carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

4. PER DIEMS

Director Kohtz informed the Board that he had no per diem requests for this meeting. Chairperson Hynek asked if any board members had a request for the Board to consider. There was no further discussion.

K. GENERAL PUBLIC COMMENTS

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

L. EDUCATION

Board Member Mustoe moved to approve the following education activities and instructors as listed:

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Appraisal Institute

Online Appraising Automobile Dealerships (2182402.02) / 7 Hours – Bradley Carter

McKissock, LLC

The Appraisal of 2-4 Unit Properties – Live Webinar (2182403.03) / 4 Hours –
Dan Bradley, Robert McClelland, Josh Walitt, Steve Craddock, Steve Maher, Robert Frazier

Manufactured Home Appraisal (2182404.03) / 4 Hours – Alan Simmons

Appraisal Institute NE

USPAP 2018-2019 (2181101.05) / 7 Hours – Cay Lacey

Seconded by Board Member McCormick. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

Board Member Hartman moved to correct the course numbers for the following activities:

Appraisal Institute

7-Hour National USPAP Update Course - Corrected from 218101.02 to 2181101.02

National Association of Independent Fee Appraisers

Residential Report Writing Skills - Corrected from 2181101.11 to 2171465.11

The motion was seconded by Mustoe, and carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

M. UNFINISHED BUSINESS

1. ABSTRACTERS BOARD REQUEST FOR NRPAB TO PROVIDE ADMINISTRATIVE SERVICES

Director Kohtz informed the Board that there is no update.

2. OPEN AT-LARGE LICENSED REAL ESTATE BROKER/CREDENTIALLED APPRAISER POSITION

Director Kohtz informed the Board that he anticipates that an appointment will be made soon.

3. REAL ESTATE COMMISSION DATABASE INQUIRY

Director Kohtz informed the Board that there is no update.

N. NEW BUSINESS: No discussion.

O. LEGISLATIVE REPORT AND BUSINESS

1. CURRENT LEGISLATION

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

LB17 – The Director informed the Board that AM1528 was filed by Senator Erdman to update the date references from 2017 to 2018. LB17 has been placed on Final Reading.

LB299 – Director Kohtz informed the Board that AM1665 was filed by the Government, Military and Veterans Affairs Committee on January 30, 2018. The amendment strikes all original sections and introduces entirely new language that requires that regulations be construed and applied to increase economic opportunities, promote competition, and encourage innovation, and be the least restrictive means of achieving the regulation's ends. AM1665 also allows an individual with a criminal history to petition the appropriate occupational board, prior to obtaining the necessary education for the occupation, for a determination as to whether their criminal history would disqualify them from obtaining the applicable license. In making this determination, the appropriate board will only determine that an individual's criminal history will disqualify that individual from obtaining a license if certain circumstances are met. AM1665 puts these responsibilities on the occupational agency and the legislative committee that oversees the statutory authority of that occupational agency. The Director indicated that the amendment minimizes the impact of LB299 on the Board, as the Board is already doing the things this bill would require. Director Kohtz also expressed interest in the fact that the legislative committees receive a lion's share of the burden, but already has the authority to carry out the provisions of the bill without the bill.

LB741 – Director Kohtz informed the Board that the hearing before the Banking, Commerce and Insurance Committee took place on January 22, 2018, and the bill was placed on General File with an 8-0 committee vote. During the committee hearing, the Board and the Nebraska Bankers Association testified in support of LB741; there was no opposition.

LB1072 – LB1072 is a new bill introduced during this session to provide that preference shall be given to purchasing Nebraska products and goods and services from a resident bidder over a nonresident bidder if the bid submitted by the resident bidder is comparable in price to a bid submitted by a nonresident bidder and otherwise meets the required specifications. LB1072 also strikes the language, “a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state.”

The Director informed the Board that the hearing before the Government, Military, and Veterans Affairs Committee is on February 15, 2018. There was no further discussion.

LB1075 – LB1075 is a new bill introduced during this session that imposes a fee on the grantor executing a deed as defined in section 76-203 upon the transfer of a beneficial interest in or legal title to real estate. The fee shall be equal to one percent of the value of the real estate. There was no further discussion.

LB1096 – LB1096 is a new bill introduced during this session that changes provisions relating to state vehicles and workers' compensation claims, tort claims, and other claims against the state. This bill eliminates the State Claims Board and moves all such duties to the State Risk Manager and Attorney General.

The Director informed the Board that the hearing before the Business and Labor Committee is on February 26, 2018. There was no further discussion.

LB1128 – LB1128 is a new bill introduced during this session that prohibits counties, local governments, and certain state entities from spending funds appropriated by the legislature if that government entity has accepted funds from a nongovernmental source, including but not limited to, grant funds, donations, and gifts.

The Director informed the Board that the hearing before the Government, Military, and Veterans Affairs Committee took place on January 31, 2018. There was no further discussion.

LB1129 – LB1129 is a new bill introduced during this session that prohibits state employees from participating in political or campaign activities while in their official capacity, and prevent state employees from using government resources of any kind for participation in political or campaign activities. Director Kohtz informed the Board that there are already laws that address this, so the intent is not clear. There was no further discussion.

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

2. TITLE 298_AUGUST 17, 2017 DRAFT

Director Kohtz reminded the Board that at the January meeting the Board requested that he follow up with the Governor's Policy and Research Office for a recommendation as to how to proceed with the draft as it is currently in their hands. The Director informed the Board that he discussed the current draft with Erin Bottger, who agreed that it would be best to hold the draft until the legislative session ends, so that any needed changes could be incorporated into the current draft. Chairperson Hynek asked if an action is needed. Director Kohtz responded that he would like a formal action by the Board to hold the draft. Board Member Mustoe moved to hold making changes to Title 298 until after the legislative session ends. Board Member Hartman seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

3. KANSAS HOUSE BILL NO. 2414

Director Kohtz brought attention to Kansas House Bill No. 2414, in which changes concerning appraisal practice are included. Specifically, the bill allows for the use of standards enforced by the Appraisal Institute in the place of USPAP under certain circumstances. The Director finished by informing the Board that his counterpart in Kansas said that the Appraisal Institute is telling senators that this language has been passed in other states. Director Kohtz indicated that he has seen no attempt at such legislation in Nebraska, but it is important to pay attention. Board Member Langemeier asked who brought the bill. Director Kohtz responded that Kansas says it is the Appraisal Institute. Chairperson Hynek said that they have been working to broaden what appraisers are able to do. Board Member Langemeier added, if an appraiser is an institute member, he or she wouldn't need to follow USPAP under certain circumstances, so this is a way to boost membership. There was no further discussion.

4. OTHER LEGISLATIVE MATTERS

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

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS: No discussion.

2. INTERNAL PROCEDURAL DOCUMENT

a. 201801: Application of Late Processing Fee for Renewal Application Mailed with Insufficient Postage

Director Kohtz presented Internal Procedure 201801 titled "Application of Late Processing Fee for Renewal Application Mailed with Insufficient Postage" to the Board for consideration. The Director informed the Board that the proposed internal procedure will provide guidance to staff regarding how to address those appraiser and AMC renewal applications mailed with insufficient postage that are mailed with additional postage within three weeks of the initial postmark. The intent is to not charge the late processing fee to those that provide evidence of the initial mailing date, evidence of the date the item was mailed with additional postage, and meet all other requirements for renewal. Board Member Hartman moved to approve Internal Procedure 201801 as presented. The motion was seconded by McCormick, and carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

3. FORMS AND PROCEDURES: 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

a. Winter 2018 Edition of The Nebraska Appraiser

Director Kohtz presented the winter edition of The Nebraska Appraiser to the Board for consideration. Chairperson Hynek directed the Board to the “Compliance Corner” and expressed his belief that the Board decided to not include detailed information pertaining to disciplinary actions. The Chairperson also mentioned that the same information is found on the website if someone really wants to see it. Board Member Langemeier questioned the need to include disciplinary action in the newsletter at all. Board Member Mustoe requested that only the general summary section, which includes the number of grievances filed and adjudicated, be retained in the Compliance Corner. Director Kohtz informed the Board that all information related to 15-18 will be removed. Board Member Mustoe moved to approve the winter edition of The Nebraska Appraiser as amended. The motion was seconded by McCormick, and carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

5. APPRAISAL SUBCOMMITTEE

a. Proposed Information Collection entitled “Reporting information for the AMC Registry”

Director Kohtz presented the Federal Registry entry titled “Reporting information for the AMC Registry” to the Board for review, and informed the Board that this proposal is a request for comment pertaining to the information that the ASC intends to collect for the AMC Registry. The Director provided a rundown of the information included by the ASC for the AMC Registry. There was no further discussion.

6. APPRAISAL FOUNDATION

a. Appraisal Qualifications Board

iii. TAF Response to Kohtz Inquiry Regarding Exception to Criteria Concerning Real Estate Degree programs

Director Kohtz informed the Board that he researched the matter of a person who obtained a Bachelor’s Degree prior to enrolling in a Real Estate Program approved by the Appraiser Qualifications Board. The Director indicated that the University of Nebraska at Omaha made an inquiry to the AQB to offer an interpretation regarding credit towards the requirements in the Real Property Appraiser Qualifications Criteria for a person who obtained a Bachelor’s Degree in Business from another college or university and would like to take courses approved by the AQB as part of the UNO’s Bachelor’s Degree in Real Estate. In its October 23, 2017 letter to UNO, the AQB determined that if this individual obtained a Bachelor’s Degree from an accredited college/university and took the University of Nebraska courses as outlined in the August 25, 2016 approval letter from the AQB, the student could receive credit toward the requirements in the Real Property Appraiser Qualification Criteria.

(continued on page 8)

(continued from page 7)

Director Kohtz also said he discussed the October 23, 2017 AQB letter with UNO. Upon the conclusion of this conversation, the Director said that he contacted the AQB to request further clarification concerning the implications of the AQB's interpretation on the application of the Criteria. The AQB provided a responses to in a letter dated February 8, 2018, in which it declares, "As suggested by the letter in question, the AQB determined that an individual who obtained a Bachelor's Degree from a duly accredited college or university, and successfully completed all of the UNO courses as identified in the AQB's approval letter dated August 25, 2016, completed an educational program equivalent to that which was approved for the UNO program. This determination was made because an individual successfully completing all eight (8) courses approved under UNO's program would have a substantially significant educational experience that would be deemed equivalent to an individual completing the same coursework as part of the approved Bachelor's Degree program at UNO." Director Kohtz informed the Board that he will draft a guidance document for the Board's consideration next month to address the AQB's interpretation.

iv. Revisions to Real Property Appraiser Qualifications Criteria Adopted by the AQB on February 1, 2018

Director Kohtz presented the AQB's Fourth Exposure Draft of Proposed Changes to the Real Property Appraiser Qualification Criteria to the Board, and informed the Board that the AQB adopted the proposed changes on February 1, 2018. The Director guided the Board through the exposure draft, and highlighted the proposed reduction to the education requirements for the licensed and certified residential level, the proposed reduction in the number of hours of experience required for all levels, and the proposed streamlined path from the licensed residential to the certified residential level. Due to the short session, the Director recommended that the Board take a measured approach to making the necessary changes to the Real Property Appraiser Act and work to develop a bill for introduction during the 2019 session. The Board agreed with the Director's assessment. There was no further discussion.

b. Appraisal Standards Board

i. ASB Q&A: January 23 2018

Director Kohtz presented the ASB's January 23, 2018 Q&As to the Board for review. The Director informed the Board that the ASB took the position that USPAP does not require an appraiser to inspect the subject property, and if factual information from an inspection conducted by a non-appraiser is used in a report, no attribution needs to be given to the source as long as the source does not provide an opinion regarding quality, condition and/or functional utility.

ii. Discussion Draft of Potential Areas of Change to the 2020-21 USPAP

Director Kohtz presented the ASB document titled, "Discussion Draft of Potential Areas of Change to the 2020-21 USPAP" to the Board for review. The Director summarized the draft, and informed the Board that the ASB is considering changes to the reporting options due to the effect of evaluations, removal of the comments in the standard rules, adding definitions for terms that are in USPAP undefined, a review of the advisory opinions will be performed, and other edits to improve clarity and the enforceability of USPAP.

iii. USPAP-IVS Bridge 2018

Director Kohtz presented The Appraisal Foundation's document titled, "A Bridge From USPAP to IVS 2018" to the Board for review. The Director informed the Board that he had no comments. There was no further discussion.

7. IN THE NEWS

a. Appraisal Buzz Article – 8 Steps To Help Minimize Appraisal Errors

Director Kohtz presented an Appraisal Buzz article "8 Steps to Help Minimize Appraisal Errors" to the Board for review. The Director indicated that he thought that the article contained some good points. There was no further discussion.

b. Appraisal Buzz Article – The Human Touch

Director Kohtz presented an Appraisal Buzz article "The Human Touch" to the Board for review. The Director indicated that he thought that the article did a good job bringing attention to the increased reliance on data, but reiterating that an appraiser must still know what that data means and how it should be used. There was no further discussion.

C. CONSIDERATION OF APPLICANTS FOR CREDENTIAL AS NEBRASKA REAL PROPERTY APPRAISER

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

SA-T2016005 / Approve as Supervisory Appraiser.

SA-T2017012A / Approve as Supervisory Appraiser.

SA-T2017012B / Approve as Supervisory Appraiser.

SA-T2017018 / Approve as Supervisory Appraiser.

CG18002R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG18003R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG17026 / Education and experience accepted; approve to sit for exam, and authorize Director to issue credential as a Certified General Real Property Appraiser upon successful completion of exam.

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

Board Member Mustoe moved to take the following action for the applicant as listed:

**CG212008R / Approve renewal as Certified General Real Property Appraiser.
Send advisory letter.**

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

Board Member Mustoe moved to approve all renewal applications received at the Board's office postmarked between January 16, 2018 and February 13, 2018 with advisory letters contingent on the results of the background check if applicable. Board Member Hartman seconded the motion. Motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: None

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Mustoe moved to take the following enforcement actions:

17-05 / Ongoing

17-07 / Ongoing

17-04 / Hold

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS: No discussion.

R. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member Hartman seconded the motion. Motion carried with Mustoe, McCormick, Hartman, Langemeier, and Hynek voting aye. At 10:11 a.m. Chairperson Hynek adjourned the February 15, 2018 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on March 1, 2018, in compliance with Nebraska Revised Statute § 84-1413 (5).