

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

May 17, 2018 Meeting Minutes

A. OPENING

Chairperson Ben Hynek called to order the May 17, 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 May 14, 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 of Lincoln, Nebraska, Christopher Mustoe of Omaha, Nebraska, Gary McCormick of North Platte, Nebraska, David Hartman of Omaha, Nebraska and Thomas Luhrs of Imperial, Nebraska were present. Also present were Director Tyler Kohtz and Business and Licensing Specialist Allison Nespore, who are headquartered in Lincoln, Nebraska. Compliance and Education Officer Grant Krieger was absent and excused.

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 Mustoe moved to adopt the agenda as printed. Board Member McCormick seconded the motion. With no further discussion, the motion carried with Mustoe, McCormick, Hartman, Luhrs, 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 9:03 a.m. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 9:49 a.m. Board Member Hartman seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

Break from 9:49 a.m. to 9:55 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Hynek welcomed the guest to the meeting and declared, "Less is more, so let's keep going." Diane Moore was the only member of the general public in attendance for the duration of the meeting. Allison Nespore appeared during general public comment.

H. BOARD MEETING MINUTES

1. APPROVAL OF APRIL 19, 2018 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the April 19, 2018 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Luhrs moved to adopt the April 19, 2018 meeting minutes as presented. Board Member Mustoe seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye. Hartman abstained.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of May 17, 2018. The Director provided a brief summary, 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 April 30, 2018. The Director then 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 May 17, 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 May 17, 2018, and asked for any questions or comments. There was no further discussion.

J. FINANCIAL REPORT AND CONSIDERATIONS – MAY 2018

1. APPROVAL OF APRIL RECEIPTS AND EXPENDITURES

The receipts and expenditures for April were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz brought attention to the HRMS assessment expense, and informed the Board that the quarterly assessment of \$44.50 is for the human resource management systems. The Director then moved to the other contractual services expense in the amount of \$5,939.75, and indicated that the majority of this expense pertained to one specific contract. As of the end of April, expenses amount to 58.09 percent of the budgeted expenditures for the fiscal year; 83.29 percent of the fiscal year has passed. Revenues are currently at 91.32 percent of the projected revenues for the fiscal year. 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 April, and informed the Board that "BRAD ELTING & CO INC" under the "Payee/Explanation" column for "REIMBURSEMENT FREIGHT" is due to refunding an overpayment for a credential renewal late processing fee. 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 \$27,973.12 in expenditures and \$11,772.32 in revenues were reported.

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

2. 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. Allison Nespor appeared before the Board and made the following statement:

“Members of the Board, I am concerned about the implications of proposed Internal Procedure 201802, NRPAB Employee Real Property Appraisal Activity. The wording of the proposed internal procedure, when combined with the definition of real property appraisal activity found in Neb. Rev. Stat. § 76-2215 as amended by LB741, would change my working conditions by prohibiting me from seeking outside employment in areas, such as abstracting or title insurance, that would not adversely affect the Board or impair my ability to objectively and fairly perform my job.

The policy as proposed prohibits any full-time regular employee of the Board from engaging in real property appraisal activity as defined in Neb. Rev. Stat. § 76-2215 and states that any matter in which a regular full-time employee engages in real property activity will be addressed in accordance to the discipline policy found in the NRPAB Employee Handbook. Neb. Rev. Stat. § 76-2215 now reads, Real property appraisal activity means any act or process involved in developing an analysis, opinion, or conclusion relating to the specified interests in or aspects of identified real estate or identified real property. Real property appraisal activity includes, but is not limited to, evaluation assignments, valuation assignments, and appraisal review assignments.

I would be prohibited, under threat of discipline, from resuming my previous work as an abstracter, because it involves developing an analysis of the public records relating to the various ownership interests in identified real estate, or working for a title insurance agency, because it could involve drafting title insurance commitments and policies, and, in the process, developing analyses and conclusions relating to the insurability of owners’ and lenders’ interests in identified real estate. Both of these examples fall under the statutory definition of real property appraisal activity in Neb. Rev. Stat. § 76-2215.

It is difficult for me to see how either of them would constitute a relationship or activity that might impair, or even appear to impair, my ability to make objective and fair decisions when performing my job. I don’t believe that it is the intent of proposed Internal Procedure 201802 to prohibit these kinds of actions or impose discipline for engaging in them, but the wording of the procedure would require such discipline. I respectfully request that you consider amending the wording of the proposed procedure to reflect accurately the true intent of the proposed procedure before it is adopted.

I would suggest amending the wording to be more specific, for example, any full-time regular employee of the Board is prohibited from engaging in valuation assignments, evaluation assignments, and appraisal review assignments. Or any full-time regular employee of the Board is prohibited from transmitting a report as defined in Neb. Rev. Stat. § 76-2216.02.

The existing Conflict of Interest section of the NRPAB Employee Handbook already contains very strong prohibitions that can be enforced against any activity on the part of an employee that poses a concern.

If the proposed internal procedure becomes effective upon the vote of the Board, was it reduced to writing and furnished to the Union at least seven calendar days prior to the effective date of the rule? Did or will the Board meet and bargain with the Union in an attempt to reach an agreement?"

Chairperson Hynek stated, "Thank you, moving on." There was no further discussion.

L. EDUCATION

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

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS

The Appraisal Institute

Basic Appraisal Principles (1181402.02) / 30 Hours – Thomas Kirby

Basic Appraisal Procedures (1181403.02) / 30 Hours – Craig Harrington

Quantitative Analysis (1181404.02) / 35 Hours – Kenneth Folz

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Trans-American Institute of Professional Studies

Supervisory/Trainee Course (3181301.09) / 7 Hours – Lynne Heiden

Appraisal Institute

Online Reviewing Residential Appraisals and Using Fannie Mae Form 2000 (2182415.02) / 7 Hours – Alan Simmons

The Moore Group

Appraisal of Small Residential Income Properties (2181416.04) / 7 Hours – Bradford Moore, Diane Moore

McKissock, LLC

Evaluating Today's Residential Appraisal: Reliable Review (2182417.03) / 7 Hours – Alan Simmons

Dynasty School

2018-2019 USPAP Update Equivalent (2182101.28) / 7 Hours – Timothy Detty

Appraisal Institute

Complex Litigation and Case Studies (2181418.02) / 7 Hours – Sandra Adomatis

McKissock, LLC

2018-2019 7-Hour National USPAP Update Course (2182101.03) / 7 Hours – Dan Bradley

2018-2019 7-Hour USPAP Update Course for Non-Residential Real Property (2182102.03) / 7 Hours – Dan Bradley

Evaluations, Desktops, and Other Limited Scope Appraisals (2182419.03) / 4 Hours – Dan Bradley

Appraisal Institute

Appraising Condos, Co-Ops and PUDs (2181420.02) / 7 Hours – Maureen Sweeney

Online Introduction to Green Buildings: Principles and Concepts (2182421.02) / 7 Hours – Alan Simmons

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

M. UNFINISHED BUSINESS: No discussion.

N. NEW BUSINESS: No discussion.

O. LEGISLATIVE REPORT AND BUSINESS: No discussion.

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS

a. 17-01: Enforcement of Nebraska Law Review Requirement for Temporary Credential Applicants

Director Kohtz presented the Guidance Document 17-01 to the Board with a recommendation to retire due to LB741 changes. Board Member Mustoe moved to retire Guidance Document 17-01. The motion was seconded by Luhrs. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

b. 17-05: Application of “Meets or Exceeds” Related to Evaluation of Reciprocal Real Property Appraiser Applicants

Director Kohtz presented the Guidance Document 17-05 to the Board with a recommendation to retire due to LB741 changes. Board Member Luhrs moved to retire Guidance Document 17-05. The motion was seconded by Mustoe. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

2. INTERNAL PROCEDURAL DOCUMENT

a. 201802: NRPAB Employee Real Property Appraisal Activity

Director Kohtz presented Internal Procedure 201802 titled “NRPAB Employee Real Property Appraisal Activity” to the Board for consideration. Chairperson Hynek asked for a motion. Board Member Mustoe moved to adopt Internal Procedure 201802 as presented, effective June 1, 2018. Board Member Mustoe declared that this policy is only effective within the context of the Nebraska Real Property Appraiser Act. The motion was seconded by Hartman, and carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

3. FORMS AND PROCEDURES: No discussion.

Q. OTHER BUSINESS

1. BOARD MEETINGS

a. 2018 Strategic Planning Meeting

Director Kohtz brought attention to the 2018 strategic planning meeting, and informed the Board that Board Member Luhrs has a conflict on June 20th. Board Member Luhrs indicated that he has a crop tour scheduled for June 20th, and requested that the Board consider moving the regular meeting to the afternoon on June 21st, and move the strategic planning meeting to the morning of June 22nd. After a brief discussion, the Board agreed to move the regular meeting to Thursday, June 21, 2018 at 2:00 p.m., and the strategic planning meeting to Friday, June 22, 2018 at 8:00 a.m. Chairperson Hynek asked for a vote. Board Member Mustoe moved to set the regular June meeting for Thursday, June 21, 2018 at 2:00 p.m., and set the strategic planning meeting for Friday, June 22, 2018 at 8:00 a.m. The motion was seconded by Luhrs, and carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

2. CONFERENCES/EDUCATION

a. Kohtz Spring AARO Conference Report

Director Kohtz attended the Spring AARO Conference May 4th through 6th in Seattle, Washington. The Director provided a detailed summary of the conference for the board members to review. Director Kohtz informed the Board that much of the discussion centered on implementation of the AMC Final Rule and on alternative valuation products. The Director noted the following highlights:

- AMC participation restrictions in States choosing to not register AMCs begin on August 10, 2018. It appears that only the District of Columbia is considering non-participation at this time. The AMC Federal Registry will open no later than July 16, 2018 for States to begin reporting the registration of AMCs that meet the Federal definition. The Appraisal Subcommittee will begin reviewing States for compliance with the AMC Final Rule in 2019.
- The Appraisal Subcommittee provided a report on Title XI requests for temporary waivers of credentialing requirements. To qualify, an application must show that a scarcity of appraisers exists that is leading to significant delays in appraisal services for FRTs, and the FFIEC concurs with the basis. The Appraisal Subcommittee denied the request made by TriStar Bank in Nashville, Tennessee.
- The Appraisal Foundation has established a Veteran's Taskforce charged with making appraising a viable career for veterans.
- The Appraisal Standards Board indicated that it looked at extending the USPAP effective period, but did not take any action for the next release. The ASB is still looking at reducing duplication, evaluating the effectiveness of definitions, and looking to improve clarity, enforcement, and understandability of USPAP.
- Freddie Mac summarized updates to the selling guide, which now permits appraisers to provide copies of MLS photographs for comparable sales, specifies that an unlicensed or trainee appraiser may perform and complete an appraisal report in accordance with State law provided a supervisory appraiser signs the report, and permits sales by a builder/developer to be used as comparable sales. Big data continues to drive innovation for Freddie Mac.

- The AQB provided some background on its decision to adopt the new Real Property Appraiser Qualifications Criteria. The AQB seeks to place less importance on the education and experience components, and more importance on the exam component of the requirements. This position is based on the increased difficulty of the exam. The AQB has begun work on developing practical applications training to count for experience.
- Some States have elected to adopt the new education requirements, but not the new experience requirements of the Real Property Appraiser Qualifications Criteria effective in May 2018. Issuance of a credential by reciprocity may be affected by this State decision because, for the first time in a long time, States will have different minimum requirements for credentialing.
- A discussion took place regarding best practices for implementation and enforcement of the AMC Final Rule.
- A discussion took place regarding the trends towards evaluation products. The Federal Government recently adopted changes to the de minimis from \$250,000 to \$500,000 for commercial real estate. Although risk is increased with this change, evaluations will play a more prominent role where exemptions from appraisal requirements exist. In the cases where evaluations can be utilized in place of appraisals for both residential and commercial real estate, the Interagency Guidelines drive the product requirements. There is currently a House Bill that would further relax appraisal requirements. This bill would allow lenders to underwrite a loan without an appraisal for certain purchase and refinance transactions, which include single family one-unit dwellings that are primary residence or second homes where the LTV limit is less than 80%.

Board Member Hartman expressed support for the changes adopted by Freddie Mac. Specifically, permitting sales by a builder/developer to be used as comparable sales. Chairperson Hynek indicated that these changes do not make his job any easier. There was no further discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER

a. Spring 2018 Edition of The Nebraska Appraiser

Director Kohtz presented the spring edition of The Nebraska Appraiser to the Board for consideration. The Director requested that the June meeting dates on page Q.11 be updated to reflect the changes made today, and that the date “July 16, 2017” be corrected to “July 16, 2018” in the second paragraph of the Spring AARO Conference report on page Q.17. Board Member Mustoe moved to approve the spring edition of The Nebraska Appraiser as amended with the Director’s recommendations. The motion was seconded by Luhrs, and carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

5. APPRAISAL SUBCOMMITTEE

a. ASC Meeting; August 29, 2018 – Washington, D.C.

Director Kohtz informed the Board that the next ASC meeting is August 29, 2018. There was no further discussion.

b. Revised Open Date for AMC Federal Registry

Director Kohtz informed the Board that the ASC has revised the opening date for the AMC Federal Registry to July 16, 2018. There was no further discussion.

c. Final Order Denying Temporary Waiver Relief

Director Kohtz presented the “Final Order Denying Temporary Waiver Relief” published in the Federal Register by the ASC concerning the request for a temporary waiver made by TriStar Bank of Dickson, Tennessee to the Board for review. The Director informed the Board that Tri-Star’s basis for request was that their logs reflect an average increase in of 82% in wait time to receive commercial appraisals or evaluations, and that the average costs to clients has increased 23%. The record shows that many appraisers from Tennessee contacted Tri-Star to provide services, but Tri-Star has not issued an assignment to any of these appraisers to date. One commenter indicated that the data relied upon by Tri-Star is inaccurate because it omits many reports completed by the commenter that have quick turnaround times. The ASC indicated that it focused on data related to delivery time for appraisals, and the data provided indicates that the delivery time for a commercial appraisal increased from twenty-one to twenty-seven days during a four-year period for this area. There was no further discussion.

6. THE APPRAISAL FOUNDATION

a. Real Property Appraiser Qualifications Criteria Effective May 2018 Q&As

Director Kohtz presented The Appraisal Foundation’s Appraiser Qualifications Board’s Q&As for the Real Property Appraiser Qualifications Criteria effective in May of 2018 to the Board for review. The Director informed the Board that these Q&As are typically included with the criteria, but are now issued separately. Director Kohtz also informed the Board that he has no specific comments, but will review the Q&As when he begins work on the next Legislative Bill to update the Real Property Appraiser Act with the latest criteria changes. There was no further discussion.

b. ASB April 20, 2018 Public Meeting Summary

Director Kohtz presented the ASB’s April 20, 2018 public meeting summary to the Board for review. The Director informed the Board that he had no specific comments. There was no further discussion.

7. IN THE NEWS

a. Appraisal Buzz Article – Everything You Need to Know About the Risks of Mortgage Fraud

Director Kohtz presented an Appraisal Buzz article titled “Everything You Need to Know About the Risks of Mortgage Fraud” to the Board for review. The Director informed the Board that he thought this article provided a good summary regarding the different types of mortgage fraud and how fraud is carried out. There was no further discussion.

b. Appraisal Buzz Article – How Lenders and Appraisers Can Work Better Together Through Increased Transparency

Director Kohtz presented an Appraisal Buzz article titled “How Lenders and Appraisers Can Work Better Together Through Increased Transparency” to the Board for review. The Director informed the Board that he doesn’t agree with everything mentioned in this article, but did agree with the overall principle that better transparency and communication between the lender and appraiser would result in a better appraisal, better process, and more trust. There was no further discussion.

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 Luhrs seconded the motion. The time on the meeting clock was 10:31 a.m. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 10:44 a.m. Board Member Luhrs seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

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:

- T18009 / Approve as Trainee Real Property Appraiser.**
- T18010 / Approve as Trainee Real Property Appraiser. Send advisory letter.**
- SA-T18009 / Approve as Supervisory Appraiser.**
- CG18010R / Approve as a Certified General Real Property Appraiser.**
- CG18012R / Approve as a Certified General Real Property Appraiser.**
- CG18013R / Approve as a Certified General Real Property Appraiser.**
- CG18014R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**

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

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

- T18003 / Approve as Trainee Real Property Appraiser.**
- CG18007 / Invite to advisory meeting; Board Member Luhrs assigned.**

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

Board Member Mustoe moved to approve all renewal applications received at the Board's office postmarked between April 16, 2018 and May 15, 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, Luhrs, and Hynek voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

- NE2018002 / Approve for registration as an Appraisal Management Company.**
- NE2018003 / Requirements for registration as an Appraisal Management Company approved as submitted. Authorize Director to issue registration upon completion of background check.**

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

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Mustoe moved to take the following enforcement actions:

**18-01 / Proceed with investigation for the alleged violation of
Neb. Rev. Stat. §§ 76-2237 and 76-2238 (4)(5)(12)(16)(18).
17-04 / Hold**

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

Board Member Mustoe moved to take the following post-enforcement actions:

**15-18 / Issue Order to Show Cause and request appraisal log for the period from
March 1, 2018 through April 30, 2018.**

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed personnel matters. No action was taken.

R. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member McCormick seconded the motion. Motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye. At 10:50 a.m. Chairperson Hynek adjourned the May 17, 2018 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on May 22, 2018, in compliance with Nebraska Revised Statute § 84-1413 (5).