

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

July 19, 2018 Meeting Minutes

A. OPENING

Chairperson Ben Hynek called to order the July 19, 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 July 16, 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, and Gary McCormick of North Platte, Nebraska, were present. Also present were Director Tyler Kohtz, Compliance and Education Officer Grant Krieger, Business and Licensing Specialist Allison Nespor, and SOS Temporary Staff Assistant Sandra Blumanhourst, who are all headquartered in Lincoln, Nebraska. Board Members David Hartman of Omaha, Nebraska and Thomas Luhrs of Imperial, Nebraska, were 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, 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, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 9:48 a.m. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, and Hynek voting aye.

Break from 10:25 a.m. to 10:37 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.” Roger Morrissey was the only member of the general public in attendance.

H. BOARD MEETING MINUTES

1. APPROVAL OF JUNE 21, 2018 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the June 21, 2018 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Mustoe moved to adopt the June 21, 2018 meeting minutes as presented. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, and Hynek voting aye.

2. APPROVAL OF JUNE 22, 2018 STRATEGIC PLANNING MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the June 22, 2018 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Mustoe moved to adopt the June 22, 2018 meeting minutes as presented. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, and Hynek voting aye.

I. DIRECTOR’S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of July 19, 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 June 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 July 19, 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 July 19, 2018, and asked for any questions or comments. There was no further discussion.

5. 2018-19 STRATEGIC PLANNING GOALS AND OBJECTIVES + SWOT ANALYSIS

Director Kohtz presented a copy of the 2018-19 Nebraska Real Property Appraiser Board Goals and Objectives and SWOT Analysis to the Board for review, and asked for any questions or comments. There was no further discussion.

Director Kohtz finished his report by welcoming SOS Temporary Staff Assistant Sandra Blumanhourst, and informed the Board that Ms. Blumanhourst will be with the agency as it considers changes to staff responsibilities upon the departure of the Compliance and Education Officer.

J. FINANCIAL REPORT AND CONSIDERATIONS – JULY 2018

1. APPROVAL OF JUNE RECEIPTS AND EXPENDITURES

Director Kohtz summarized the expenditures and revenues for the fiscal year end, which ended with \$345,938.63 in expenditures and \$341,586.45 in receivables. As of the end of June, expenses amount to 71.28 percent of the budgeted expenditures. Director Kohtz also noted that revenues finished at 100.16 percent of the budgeted revenues for the fiscal year. The Director then broke down expenditures by operations, encumbrances, and one time funded projects to give to Board a sense of its base expenditures for the fiscal year. The Director reported that the base expenditures for the fiscal year, which does not include encumbrances or one-time projects, ended at \$295,908.00 and 78% of the base appropriation of \$380,053.00.

Director Kohtz then provided some specific details to the Board, and informed the Board that work has commenced on the database, so data processing expenses were significantly below budget, but approximately \$20,000.00 has been utilized during the past couple months. The Director also mentioned that the publication and print expenses were below budget because the Board did not have a copier contract for half of the fiscal year; this expenditure will be closer to the budgeted amount for FY18. Director Kohtz then guided the Board to legal services expenses, and indicated that this account finished at 52.54% of budgeted, which is impressive due to the fact that it also included approximately \$10,000.00 in expenditures encumbered from FY16. The Director stated that the high legal related expenses were the result of hearing costs for 15-18. Director Kohtz then reminded the Board that this expenditure was discussed at strategic planning, and an additional \$5,000.00 of carryover has been applied to this account in the proposed FY 2018-19 budget. The Director finished discussing expenditures by informing the Board that the SOS temporary services expenses finished below budget at 63.10% of budgeted.

Director Kohtz then turned attention to revenues, and informed the Board that it had a good year with regard to revenue. The Director indicated that the education revenues performed very well, which can only be explained by the implementation of the new education activity procedures. Director Kohtz also brought attention to licensed new fees and certified residential new fees, and informed the Board that these two revenue sources fell far below expectations. The Director continued by saying that he didn't expect much in the way of revenues for new licensed residential real property appraisers, but zero surprised him. Director Kohtz then reminded the Board that he expects the licensed credential to become a temporary stop for residential appraisers, so the numbers should bounce back, then stabilize in the future. The Director finished his fiscal year report by informing the Board that AMC revenues were once again strong with AMC renewals exceeding projections. The Director asked for any questions regarding the 2017-18 fiscal year. There was no further discussion.

The receipts and expenditures for June were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz brought attention to the data processing expense, and reminded the Board that CIO has resumed working on the database project; approximately \$16,000.00 of the \$18,234.58 expenditure is for this project. 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 June, 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 \$37,705.67 in expenditures and \$15,491.01 in revenues were reported.

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

2. FISCAL YEAR 2018-2019 BUDGET

Director Kohtz presented the final Fiscal Year 2018-19 Budget to the Board for consideration, and informed the Board that, except for updating the Director's salary, nothing has changed in the proposed budget since it was presented at the strategic planning meeting. The Director provided a summary regarding the application of budgeted expenditures to the Appraiser Fund and the AMC Fund, and informed the Board that the general expenses will be split 60% to the Appraiser Fund and 40% to the AMC Fund, as more time and resources are needed to carry out the LB17 changes. Director Kohtz then informed the Board that the Appraiser Fund will be the primary source of funding for the database project during the next fiscal year, which will result in a significant fund balance decrease for the Appraiser Fund. In addition, the transition to the new procedures due to the LB17 implementation will result in a significant fund balance decrease to the AMC Fund. Director Kohtz indicated that both funds would stabilize during FY19. The Director finished by stating that the Appraiser Fund and the AMC Fund have been utilized for one-time expenditures such as the database project, but if the Appraiser Fund hits the \$250,000 threshold, the Board may want to explore additional funding options, such as a technology fee or grants, to complete one-time expenditure projects in the future. The Director asked the Board if it had any questions or recommendations. With no further discussion, Board Member Mustoe moved to approve the Fiscal Year 2018-19 Budget as presented. The motion was seconded by McCormick, and carried with Mustoe, McCormick, and Hynek voting aye.

3. 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. Roger Morrissey said "I have nothing."

L. CONSIDERATION OF EDUCATION-INSTRUCTOR REQUESTS

Compliance and Education Officer Krieger brought specific attention to the McKissock continuing education activity titled "Understanding Limited Service Hotels," and informed the Board that the education provider failed to provide sufficient evidence that the instructors submitted for this activity are qualified to teach an activity concerning the appraisal of hotels. Director Kohtz declared that the three most common reasons for issuance of temporary credentials are related to health facilities, hotels, and national chain franchises. The Director then asked Board Member Mustoe if he had an opinion on the instructors. Board Member Mustoe responded by saying that the limited service hotels could be Super 8s, Best Westerns, and Holiday Inn Expresses, but one should still have experience with this type of property if he or she is an instructor for an activity covering the topic. Chairperson Hynek asked if the application can be held to obtain further information regarding the instructor qualifications.

Board Member Mustoe moved to take the following actions for education activities and instructors as listed:

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

Calypso Continuing Education

2018-2019 7-hr USPAP Update Course (2182101.10) / 7 Hours – *Approved*

Amy McClellan – *Approved*

OnCourse Learning

2018-2019 7 Hour Equivalent USPAP Update Course (2182101.16) / 7 Hours – *Approved*

Augustus Black – *Approved*

Department of Veterans Affairs

VA Appraisal 101 (2181423.26) / 2 Hours – *Approved*

Ryan Nelson – *Approved*

The Moore Group

An Appraiser as an Expert Witness (2181424.04) / 7 Hours – *Approved*

Bradford Moore – *Approved*

Appraisal Institute

Ignorance Isn't Bliss: Understanding an Investigation by a State Regulatory Board or Agency (2181425.02) / 4 Hours – *Approved*

Craig Steinley – *Approved*

Valuation by Comparison: Residential Analysis and Logic (2181426.02) / 7 Hours – *Approved*

Woody Fincham – *Approved*

Income Approach for Residential Appraisers (2181427.02) 7 Hours – *Approved*

Richard Dubay – *Approved*

McKissock, LLC

National USPAP Update (2018-2019) (2181102.03) / 7 Hours – *Approved*

Dale Shea, Charles Huntoon, Dan Bradley, Larry McMillen, Philicia Lloyd, Steve Maher, Steve Vehmeier, Wally Czekalski – *Approved*

Understanding Limited Service Hotels - The Basics of Hotel Appraising (2181428.03) 7 Hours – *Hold*

Dale Shea, Charles Huntoon, Dan Bradley, Larry McMillen, Philicia Lloyd, Steve Maher, Steve Vehmeier, Wally Czekalski – *No action taken.*

Evaluating Today's Residential Appraisal: Reliable Review (2181429.03) / 7 Hours – *Approved*

Dale Shea, Charles Huntoon, Dan Bradley, Larry McMillen, Philicia Lloyd, Steve Maher, Steve Vehmeier, Wally Czekalski – *Approved*

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

M. UNFINISHED BUSINESS: No discussion.

N. NEW BUSINESS

1. SUPERVISORY APPRAISER REQUIREMENTS FOR HYPOTHETICAL REPORTS COMPLETED BY TRAINEE REAL PROPERTY

Director Kohtz brought attention to hypothetical reports completed by trainee real property appraisers, and indicated that this item was on the strategic planning agenda, but was somehow missed during the meeting. The Director continued by asking, "Should a supervisory appraiser be required to sign a hypothetical report? Right now the rules are unclear as to how staff should view this situation." Board Member Mustoe stated, "I don't know why you would have to have the supervisor sign." Chairperson Hynek granted public member Roger Morrissey permission to speak. Mr. Morrissey said, "I'd be leery about signing it as a supervisor." Board Member Mustoe asked, "Would the supervisor want to be working for no compensation?" Chairperson Hynek asked if a vote is needed. Director Kohtz assured this would be clarified in the upcoming rules draft presented to the Board for approval. A question was then asked about the amount of experience that can be obtained by developing hypothetical reports. The Director informed the Board that experience hours for non-traditional reports are limited to 50% of the total number of hours required for each classification.

2. PROCESSING OF GRIEVANCES FILED ANONYMOUSLY

Director Kohtz presented an email response received from AAG Hart concerning the processing of grievances filed anonymously. The Director reminded the Board that it asked him to pose the question to AAG Hart. AAG Hart responded that the Board should not be concerned about rejecting grievances filed anonymously. AAG Hart also mentioned that the Attorney General's Office does not accept or investigate open meeting or public record complaints that are sent anonymously. Chairperson Hynek thanked the Director for this report. There was no further discussion.

O. LEGISLATIVE REPORT AND BUSINESS: No discussion.

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS: No discussion.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. FORMS AND PROCEDURES

Director Kohtz presented the revised Real Property Appraiser Credential Renewal Application Procedures, 2019-20 Application for Renewal of Real Property Appraiser Credential, and 2019-20 Application for Renewal of Trainee Credential to the Board for review. With no further discussion, Board Member Mustoe moved to approve the Real Property Appraiser Credential Renewal Application Procedures, 2019-20 Application for Renewal of Real Property Appraiser Credential, and 2019-20 Application for Renewal of Trainee Credential Real Property Appraiser Credential as presented. The motion was seconded by McCormick, and carried with Mustoe, McCormick, and Hynek voting aye.

Q. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

2. CONFERENCES/EDUCATION: No discussion.

3. MEMOS FROM THE BOARD

Director Kohtz presented a Memo From the Board titled, “Changes to Nebraska Real Property Appraiser Continuing Education Requirements” to the Board for consideration. Chairman Hynek informed the Board that he asked the Director to put this together to quickly explain the changes to Nebraska real property appraiser continuing education requirements. After a brief discussion, Board Member Mustoe moved to approve the Memo From the Board as presented. The motion was seconded by McCormick, and carried with Mustoe, McCormick, and Hynek voting aye.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE: No discussion.

6. THE APPRAISAL FOUNDATION

a. TAF announces Board of Trustees Elections and Appointments: No discussion.

b. TAF seeks candidates for AQB and ASB: No discussion.

c. National Appraisal Forum to Discuss Appraisal Waivers and Hybrid Appraisals: No discussion.

d. ASB Q&A: June 2018

Director Kohtz presented the ASB’s June 2018 Q&As to the Board for review. The Director informed the Board that the ASB clarified that “At the time of the assignment” refers to the time period commencing with the appraiser’s agreement to perform a valuation service and ending with the completion of the assignment; a government agency’s workfile retention requirements are acceptable if the requirement meets or exceeds USPAP; an organization cannot use a blanket statement, such as “Large National Appraisal Form has provided a prior service” in an appraisal certification, as the certification pertains to the appraiser who signed the certification; a report used in litigation is not the same as an appraiser providing testimony for the purpose of the USPAP record retention rule; and preliminary communication of information contained in the appraisal between the appraiser and the client does not need to be retained in the workfile after the appraisal is transmitted to the client. There was no further discussion.

7. IN THE NEWS: No discussion

Board Member Mustoe moved that the Board go into executive session for the purpose of 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 10:37 a.m. The motion carried with Mustoe, McCormick, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 11:58 a.m. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, 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:

- T18011 / Approve as Trainee Real Property Appraiser. Send advisory letter.**
- T18012 / Approve as Trainee Real Property Appraiser.**
- T18013 / Approve as Trainee Real Property Appraiser.**
- SA-T18012 / Approve as Supervisory Appraiser.**
- SA-T18013 / Approve as Supervisory Appraiser.**
- CG18015R / Approve as Certified General Real Property Appraiser.**
- CG18016R / Approve as Certified General Real Property Appraiser.**
- CG18011 / 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, and Hynek voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY:

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

- NE2018004 / Approve for registration as an Appraisal Management Company.**
- NE2018005 / Approve for registration as an Appraisal Management Company.**

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

Chairperson Hynek expressed his intent to abstain from voting on the application for registration as an appraisal management company for NE2018003. No action taken due to the lack of a quorum.

E. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

CEO Krieger informed the Board that the Complainant has withdrawn Grievance #18-02 and the matter is closed.

Board Member Mustoe moved to take the following enforcement actions:

- 18-04 / Dismiss without prejudice.**
- 18-01 / Ongoing.**
- 17-04 / Hold. Send letter to Complainant explaining reason that this matter is on hold.**

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

The Board discussed personnel matters. Board Member Mustoe made the following motion:

In order to meet the highest level of efficiency and effectiveness for the Board and its staff, the Compliance and Education position will be retired. Adjusting for the loss of this position, I move to approve the hiring of a "Staff Assistant I" to provide assistance to the director and the Board's programs. Furthermore, as a result of the director's additional responsibility of conducting the Board's compliance investigations, an increase in the director's annual salary of \$7,000 is made, recognizing financial savings by the change of positions and responsibility. This change would become effective July 25, 2018.

The motion was seconded by Board Member McCormick, and carried with Mustoe, McCormick, and Hynek voting aye.

R. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member McCormick seconded the motion. Motion carried with Mustoe, McCormick, and Hynek voting aye. At 12:03 p.m., Chairperson Hynek adjourned the July 19, 2018 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on July 24, 2018, in compliance with Nebraska Revised Statute § 84-1413 (5).