

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

September 20, 2018 Meeting Minutes

A. OPENING

Chairperson Ben Hynek called to order the September 20, 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 September 17, 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, Thomas Luhrs of Imperial, Nebraska, Christopher Mustoe of Omaha, Nebraska, and Gary McCormick of North Platte, Nebraska, were present. Also present were Director Tyler Kohtz, Business and Licensing Specialist Allison Nesor, and SOS Temporary Staff Assistant Sandra Blumanhourst, who are all headquartered in Lincoln, Nebraska. Board member David Hartman of Omaha, Nebraska, 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, 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 9:02 a.m. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 9:30 a.m. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye.

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 AUGUST 16, 2018 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the August 16, 2018 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Mustoe moved to adopt the August 16, 2018 meeting minutes as presented. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of September 20, 2018. He stated the trends are holding steady 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 August 31, 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 September 20, 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 September 20, 2018, and asked for any questions or comments. There was no further discussion.

J. FINANCIAL REPORT AND CONSIDERATIONS – SEPTEMBER 2018

1. APPROVAL OF AUGUST RECEIPTS AND EXPENDITURES

The receipts and expenditures for August 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 of \$8,535.49, and informed the Board that the majority of this expense is due to the Education Interface in the Database. The Director informed the Board that the interface is complete and that he is working out the logistics for implementation with CIO. Director Kohtz then mentioned that CIO wants the changes implemented, so that it can keep progressing on the other projects. Chairperson Hynek asked for a preview of the Education Interface. BLS Nespor was asked to open the test database on the screen for the board members. BLS Nespor and Director Kohtz then walked the Board through the functions of the interface. Chairperson Hynek thanked the staff for the preview. The Director then moved to the publication and print expense of \$602.52, and informed the Board that the quarterly copy services charge for April through June is included. Director Kohtz finished review of the Budget Status Report by informing the Board that the SOS temp serv-personnel expense of \$2331.01 is the salary payment made for A.S. Blumanhourst.

As of the end of August, expenses amount to 16.83 percent of the budgeted expenditures for the fiscal year; 16.99 percent of the fiscal year has passed. Revenues are currently at 9.38 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 July, 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 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 \$36,088.11 in expenditures and \$17,830.04 in revenues were reported. The Director reminded the Board that October is typically the month in which revenues begin exceeding expenditures. This trend then continues through January. Director Kohtz then remarked that the cash balance for the AMC fund is \$321,482.86, the Appraiser Fund is \$243,730.98, and the overall cash balance is \$565,213.84.

Board Member Mustoe moved to accept and file the August 2018 financial reports for audit. Board Member Luhrs seconded the motion. The motion carried with Mustoe, McCormick, 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

Roger Morrissey appeared before the Board. Mr. Morrissey asked the Board the hypothetical question, "If I were a student at UNO in the Real Estate program, and already held a bachelors in business, does the Board accept the UNO Real Estate courses, and can I still work as a Trainee?" Director Kohtz requested permission to address the question. Chairperson Hynek granted permission to Director Kohtz to answer the question. Director Kohtz informed Mr. Morrissey that the courses included in the UNO Real Estate program as approved by the AQB cannot be utilized for qualifying education approval on an individual basis. The AQB has indicated that qualifying education credit is awarded only after the completion of the entire program.

The Director continued by declaring that he has been working with the UNO program chair to obtain individual approval of courses to meet qualifying education, separate from the AQB's approval. This requires a rule change on the Board's part, which the Board is working on, and submission of the course for Board approval by UNO once the rule change is complete. Director Kohtz finished by stating that UNO would like to provide the option for its students to become trainee real property appraisers and obtain experience credit while completing the program. The University intends to collaborate with local appraisal firms to provide experience opportunities for its students.

Mr. Morrissey inquired about the time frame for the rules update. Director Kohtz responded that the draft is still being reviewed by the Governor's Policy and Research Office. Once this is completed, the Board will begin the formal rule change process, which includes public vetting and a hearing. The Director finished by saying that he anticipates the rule changes to be implemented in February or March.

Director Kohtz then indicated that he didn't answer the second part of the question, and proceeded by stating that the language in the AQB Real Property Appraiser Qualifications Criteria requires that an applicant earn a degree from the school after completing the AQB approved degree program at that school; however, the AQB has recently declared that if an applicant already holds a bachelors degree, and completes the AQB approved program, it is considered to be equivalent to the degree earned at the school through the AQB approved program.

Mr. Morrissey thanked the Board for the information.

L. CONSIDERATION OF EDUCATION-INSTRUCTOR REQUESTS

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

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS

American Society of Farm Managers and Rural Appraisers

General Market Analysis and Highest & Best Use (1181431.01) / 30 Hours – *Approved*

Terry Kestner – *Approved*

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

The Moore Group

2018-2019 7-Hour Equivalent USPAP Update (2182132.04) / 7 Hours – *Approved*

Bradford Moore – *Approved*

Property and Valuation Analysis for FHA (2182433.04) / 7 Hours – *Approved*

Bradford Moore – *Approved*

Challenging Assignments for Residential Appraisers (2182434.04) / 7 Hours - *Approved*

Bradford Moore – *Approved*

Defensible Appraising (2182435.04) / 7 Hours – *Approved*

Bradford Moore – *Approved*

Appraising Small Residential Income Properties (2182436.04) / 7 Hours – *Approved*

Bradford Moore – *Approved*

Mortgage, Appraisers and Foreclosures (2182437.04) / 7 Hours – *Approved*

Bradford Moore – *Approved*

International Right of Way Association

United States Land Titles (2182438.07) / 16 Hours – *Hold*

Daniel Beardsley – (no action)

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

M. UNFINISHED BUSINESS

1. ADMINISTRATIVE SPECIALIST OPENING UPDATE

Director Kohtz provided an update to the Board concerning the open Administrative Specialist position, and indicated that to date a pre-interview written assessment has been completed by the qualified applicants. The next steps include phone interviews and in person interviews. The Director indicated that six applicants have been selected for a phone interview, and that he hopes to have two to four applicants selected for in person interviews. Director Kohtz finished by indicating that he hopes to have an offer made by the end of next week. The Board commented on the swift progress made during the applicant review processes, and thanked the Director for the update.

2. NRPAB OFFICE RELOCATION

Director Kohtz informed the Board that he has no update regarding the office relocation.

N. NEW BUSINESS

1. OPEN AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS POSITION

Board Member Hartman's term as the At-Large Representative of Financial Institutions Board Member expires on December 31, 2018. Director Kohtz informed the Board that it is time to begin advertising for the position, and that he intends to follow the same procedure as for the previous openings of this position; various financial entities will be notified of the opening. The Director also mentioned that he would keep the Board up to date regarding any communication with the Governor's office and applicants for the open position. Director Kohtz then presented a Memo From the Board concerning the open At-Large Representative of Financial Institutions position to the Board for consideration. Board Member Mustoe moved to approve the Memo From the Board as presented. Seconded by Board Member Luhrs. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye.

O. LEGISLATIVE REPORT AND BUSINESS

1. NEBRASKA REAL PROPERTY APPRAISER ACT UPDATE DRAFT

Director Kohtz presented the initial draft of the Nebraska Real Property Appraiser Act with updates to include the Real Property Appraiser Qualifications Criteria effective on May 1, 2018 to the Board for consideration. The Director summarized all changes as the Board reviewed the draft. Specifically, Director Kohtz brought attention to the following changes:

- Based on the request made by the Board at its strategic planning meeting in June, "who holds a credential as a licensed or certified real property appraiser" is removed from 76-2222 (1), and "which includes at least two real property appraisers" is added to 76-2222 (4).
- The phrase "or state the nature of any civil judicial actions" is added to 76-2227 (1)(f) to allow the Board discretion regarding the effect of such action on the applicant's ability to become a credentialed appraiser.
- Based on the request made by the Board at its strategic planning meeting in June, the seven-hour requirement is removed from the supervisory appraiser and trainee course throughout the Real Property Appraiser Act.
- Because a difference exists between the definition of real property and real estate, "or real estate" was added to the scope of practice for the licensed residential and certified residential classifications. Also, the addition of "if any" was added to the licensed residential and certified residential classification to better align with the scope of practice found in the Real Property Appraiser Qualifications Criteria.
- Attention was brought to 76-2228.01(1)(c)(i). Director Kohtz informed the Board that all the language related to the Fifteen-Hour USPAP course is removed from this section, and the same language is removed from the other classifications as well. The Director indicated that the details for qualifying education requirements, including the specific activities, are already found in Title 298, so removal of this language is to clean up the language and simplify the document.
- "An instructor certified by the Appraiser Qualifications Board satisfies this requirement by successfully completing a 7-Hour Instructor Recertification Course and exam as approved by the Appraiser Qualifications Board" is added to 76-2236 (2). This language is already found in the Real Property Appraiser Qualifications Criteria, but has never been adopted by the Board.

- “Against a credential holder” is removed from 76-2238 (7) as it is unnecessary since this evaluation would typically apply to applicants and not credential holders, and the purpose of the section is “The following acts and omissions shall be considered grounds for disciplinary action or denial of an application by the board.”
- The reduction to the education requirements for the licensed and certified residential level, the reduction in the number of hours of experience required for all levels, and the streamlined path from the licensed residential to the certified residential level as found in the Real Property Appraiser Qualifications Criteria are included.
- The requirement that qualifying education must be completed in a classroom is removed throughout the Real Property Appraiser Act.

Director Kohtz indicated that the next step is working with Bill Marienau, Legal Counsel for the Banking, Commerce, and Insurance Committee, to put together a requisition draft in a bill format. Once the language issues are worked out, the requisition bill will come back to the Board for another review. Chairperson Hynek asked, “When are we hoping for these changes to be addressed?” Director Kohtz answered, “This season, so January.”

Board Member Mustoe moved approve the draft as submitted and authorize Director Kohtz to work with the Committee legal counsel to develop a finished product. Seconded by Board Member Luhrs. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye.

2. TITLE 298 DRAFT

a. AAG Hart Comments to Proposed Changes to Title 298

Director Kohtz presented a response received from Assistant Attorney General Hart regarding the proposed changes to Title 298. In the response, AAG Hart indicated that one typo was found, and a problem was found with the proposed Board authority in Subsections 001.01 and 001.02 in Chapter Four. Director Kohtz informed the Board that the language was simplified in these two subsections and approved by AAG Hart as shown on Pages O.50 and O.51 of the Board Meeting Packet. Chairperson Hynek asked if any action is needed. Director Kohtz informed the Board that no action is needed.

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS:

a. 17-06: Investigation of a Grievance When Subject Report is Involved in Litigation

Director Kohtz presented Guidance Document 17-06 to the Board for reconsideration. The Director reminded the Board that at its August regular meeting, it requested that this guidance document be placed on the agenda for discussion. After a brief discussion, Chairperson Hynek expressed support for the guidance document as adopted. Board member Mustoe agreed, and indicated that the procedure is sound and accomplishes what it is intended to do. There was no further discussion.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. APPRAISER FORMS AND PROCEDURES: No discussion.

Q. OTHER BUSINESS

1. BOARD MEETINGS

a. October Meeting Date Changed to October 17, 2018

Director Kohtz informed the Board that the October meeting date was changed from October 18, 2018 to October 17, 2018 due to his travel arrangements for the AARO Conference. The Director asked for a motion to publicly recognize the change. Board Member Mustoe moved to hold the October meeting on October 17, 2018. Seconded by Board Member McCormick. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye.

2. CONFERENCES/EDUCATION:

a. Kohtz UNL Farm and Rural Property Appraisal Course Presentation; October 3, 2018

Director Kohtz informed the Board that he has once again been invited to give a presentation to the Farm and Rural Property Appraisal Course on east campus on October 3, 2018. The Director informed the Board that he will again discuss appraisal practice and real property appraiser qualifications. There was no further discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER:

a. Summer 2018 Edition of The Nebraska Appraiser

Director Kohtz presented the summer edition of The Nebraska Appraiser to the Board for consideration. Board Member Mustoe recommended removing the section concerning members passing if no one is listed as found on page Q.6. Director Kohtz informed the Board that the inclusion was an oversight; it will be removed. Board Member Hynek brought attention to a typo found on page Q.4, and recommended that an “s” is missing from the word “year” in the paragraph for the third bullet point. Director Kohtz informed the Board that the “s” will be added. Board Member Mustoe moved to approve the summer edition of The Nebraska Appraiser as amended. Seconded by Board Member Luhrs. Chairperson Hynek called for the vote. The motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye.

5. APPRAISAL SUBCOMMITTEE

a. ASC Meeting; November 14, 2018 – Washington, D.C.

Director Kohtz informed the Board that the next ASC meeting is November 14, 2018. There was no further discussion.

b. ASC Five-Year Strategic Plan

Director Kohtz presented the ASC Five-Year Strategic Plan for the Board to review. There was no further discussion.

c. ASC June 8, 2018 Meeting Minutes

Director Kohtz presented the ASC June 8, 2018 meeting minutes to the Board for review. There was no further discussion.

6. THE APPRAISAL FOUNDATION: No discussion.

7. IN THE NEWS

a. Appraisal Buzz Article – One Small Step for Appraisers, One Giant Step for Texas

Director Kohtz presented an Appraisal Buzz article titled “One Small Step for Appraisers, One Giant Step for Texas” to the Board for review. The Director indicated that it is always interesting to review how other states are addressing appraiser related issues. There was no further discussion.

b. Appraisal Buzz Article – Value of Analytical Researchers

Director Kohtz presented an Appraisal Buzz article titled “Value of Analytical Researchers” to the Board for review. The Director informed the Board that he included this article because it appears to have interesting information regarding the use of residential property related data. 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:

CG18019R / Approve as a Certified General Real Property Appraiser.

CG18020R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.

CG18017R / Hold.

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

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: None.

E. CONSIDERATION OF COMPLIANCE MATTERS

Board Member Mustoe moved to take the following enforcement actions:

18-06 / Hold

18-01 / Ongoing

17-04 / Hold

18-05 / Correct August 16, 2018 motion from “Dismissed without prejudice; send advisory letter” to “Dismissed without prejudice.”

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS: None

R. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member Luhrs seconded the motion. Motion carried with Mustoe, McCormick, Luhrs, and Hynek voting aye. At 10:30 a.m., Chairperson Hynek adjourned September 20, 2018, meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on September 27, 2018 in compliance with Nebraska Revised Statute § 84-1413 (5).