

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

October 17, 2018, Meeting Minutes

A. OPENING

Chairperson Ben Hynek called to order the October 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 October 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 David Hartman of Omaha, Nebraska, 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 Nesper, Administrative Specialist Katja Duerig, and SOS Temporary Staff Assistant Sandra Blumanhourst, who are all headquartered in Lincoln, Nebraska.

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 Luhrs seconded the motion. With no further discussion, the motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

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

Board Member Mustoe, moved to come out of executive session at 9:46 a.m. Board Member Luhrs seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

Break from 9:46 a.m. to 10:00 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 SEPTEMBER 20, 2018 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the September 20, 2018 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Mustoe moved to adopt the September 20, 2018 meeting minutes as presented. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of October 17, 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 September 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 October 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 October 17, 2018, and asked for any questions or comments. There was no further discussion.

Director Kohtz finished his report by welcoming the Board's new Administrative Specialist Katja Duerig. The Director informed the Board that Ms. Duerig distinguished herself from the other applicants during the evaluation process and will be an asset to the Board.

J. FINANCIAL REPORT AND CONSIDERATIONS – OCTOBER 2018

1. APPROVAL OF SEPTEMBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for September were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz brought attention to the postage expense of \$827.84, and informed the Board that this expenditure includes appraiser renewal notices sent out and letters sent to AMCs to notify them of the law changes that have become effective. The Director then moved to the data processing expense of \$5,127.57, and informed the Board that the majority of this expense is due to the Education Interface implementation. Next, Director Kohtz brought attention to the conference education expense of \$500.00, and indicated that this expense is the director's AARO Conference registration. The Director then indicated that the household and institutional expense of \$38.00 was for a new jacket for him for the AARO Conference. Finally, Director Kohtz informed the Board that many assessments were paid during the month of September, which included \$633.00 for the annual accounting and auditing assessment, \$108.00 for the annual purchasing assessment, and a quarterly human resources management systems assessment of \$44.50. The Director finished by declaring that appraiser renewals are beginning to pick up, and that the revenues are beginning to reflect this activity. Director Kohtz reported \$9,350.00 in revenue for certified general renewals, \$550.00 in revenue for licensed residential renewals, and \$4,125.00 for certified residential renewals. The Director also brought attention to the lack of revenue for new certified residential real property appraisers, and informed the Board that no credentials have been awarded yet this year for this classification.

As of the end of September, expenses amount to 22.75 percent of the budgeted expenditures for the fiscal year; 25.21 percent of the fiscal year has passed. Revenues are currently at 17.36 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 September, and notified the Board that the "Payee/Explanation" entry of "ART FX SCREENPRINTING & EMBROI" found on packet pages J.7 and J.10 was for the jacket previously mentioned. 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 \$26,934.82 in expenditures and \$25,029.27 in revenues were reported. Director Kohtz then remarked that the cash balance for the AMC fund is \$319,209.56, the Appraiser Fund is \$246,535.03, and the overall cash balance is \$565,744.59.

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

2. PER DIEMS

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

3. ADOBE ACROBAT (TEMP STATION)

Director Kohtz presented two pricing proposals for Adobe Acrobat to the Board for review, and informed the Board that because of technology advances, the temporary position can no longer operate effectively without access to Adobe. The first proposal presented by the Director included a full license for Adobe Acrobat Pro 2017 for an amount of \$331.00, and a full license of Adobe Acrobat Standard 2017 for an amount of \$221.00. The second proposal presented by the Director included the subscription rates for each version. Director Kohtz indicated that the Board would be required to purchase a subscription for a full year, but then could be on a monthly plan after that. The Director then informed the Board that pursuing the full license is more cost effective over the period of two years compared to the subscription, and that he reviewed the features of both versions, and the Adobe Acrobat Standard 2017 would include all of the features needed for the temporary position. The Director requested approval to purchase one new license of Adobe Acrobat Standard 2017. Board Member Hartman moved to approve one license of Adobe Acrobat Standard 2017 as presented. Board Member McCormick seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

K. GENERAL PUBLIC COMMENTS

Chairperson Hynek asked for any public comments. Public Member Roger Morrissey declared, "Less is more." There was no further discussion.

L. CONSIDERATION OF EDUCATION-INSTRUCTOR REQUESTS

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

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

International Right of Way Association

The Valuation of Partial Acquisitions, C-421 (2182440.07) / 32 Hours – Lawrence Dupree

United States Land Titles (2182438.07) / 16 Hours – Daniel Beardsley

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

M. UNFINISHED BUSINESS

1. ADMINISTRATIVE SPECIALIST OPENING UPDATE

Director Kohtz reported to the Board that the position has been filled and will be removed from the agenda.

2. NRPAB OFFICE RELOCATION

Director Kohtz informed the Board that he has no update. There was no further discussion.

3. OPEN AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS POSITION

Director Kohtz informed the Board that he has no update. There was no further discussion.

N. NEW BUSINESS

1. APPRAISAL INSTITUTE EDUCATION CERTIFICATES

Director Kohtz presented an email sent to board members on October 5, 2018 concerning issues with education certificates brought to attention by the Appraisal Institute. The Director provided a brief summary of the email, including his recommendations. The Board discussed the positives and negatives of amending the Board's current rule requiring that the appraiser provide evidence of approval of an education activity by another jurisdiction. The Board concluded that reducing this burden on the appraiser would be beneficial, and that staff is capable of conducting this research. The Board then turned its attention to education certificates being submitted with incorrect information. Chairperson Hynek expressed concern that an appraiser's renewal application may be denied if the appraiser is not providing this information. SA Blumanhourst explained that no applications have been rejected due to incomplete certificates, but instead the credential holder is requested to obtain an updated certificate from the education provider. Director Kohtz suggested that the Board remove the requirement that the appraiser provide evidence that an activity was approved by the licensing authority of the jurisdiction in which the activity was completed, and remove the requirement that an approval number must be present on a class certificate. Board Member Luhrs moved to remove the language requiring that an applicant for a credential or renewal of a credential provide evidence that an education activity was approved by the licensing authority in which the activity was completed, and the requirement that an education certificate include the Board's approval number from Title 298 in the current draft. Board Member Mustoe seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

O. LEGISLATIVE REPORT AND BUSINESS:

1. REQ00188

Director Kohtz presented REQ00188 to the Board for review, and informed the Board that the final changes have been made. The Director guided the Board through the changes made since the Board viewed the previous draft, and indicated that the definition for non-appealable disciplinary action was removed as it may be too limiting. Director Kohtz brought attention to the changes regarding the Board makeup and quorum on page O.2, and asked the Board if it was still comfortable with the changes. There was no discussion. The Director then informed the Board that the added language, "or state the nature of any civil judicial actions" was removed. Director Kohtz indicated that it would be better to not draw attention to this section or completely overhaul the section. The initial decision was to not bring attention to the section. Finally, the Director brought attention to the minor changes made to the scope of practice found on pages O.7, O.13, O.17, and O.18. Director Kohtz informed the Board that Real Estate was added to the scope because it is a defined term, and "if any" was added to the licensed residential real property appraiser and certified residential real property appraiser scope to clarify that it includes property with no structure in which the highest and best use of the property would be within the scope of practice for the classification. The Director then asked that the Board approve the bill draft for public comment. Board Member Mustoe moved to approve REQ00188 as presented and request comments on the proposed language for consideration. Seconded by Luhrs, and carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

2. TITLE 298 DRAFT: No discussion.

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS

a. 18-03: Supervisory Appraiser and Trainee Course Instructor Completion

Director Kohtz presented Guidance Document 18-03 to the Board for consideration, which allows for an instructor who successfully conducts a Supervisory Appraiser and Trainee Course to receive credit for completing this course as a part of the requirements to become a supervisory appraiser. Chairperson Hynek expressed dissatisfaction with the proposed guidance document, and asked why the approval cannot be made on an individual basis. Director Kohtz responded that it can, but a guidance document gives the staff direction regarding how to address this situation for potential supervisory appraisers. Board Member Mustoe indicated that the Board will still be responsible for approving the supervisory appraiser application, but the guidance document will provide better guidance for staff as how to approach this situation. Chairperson Hynek expressed reservations approving the guidance document, but agreed that it is in the best interest of the staff and potential applicants to establish that being an instructor for such course qualifies for approval of completion of the course. Board Member Mustoe moved to adopt Guidance Document 18-03 as presented. Board Member Luhrs seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. APPRAISER FORMS AND PROCEDURES: No discussion.

Q. OTHER BUSINESS

1. BOARD MEETINGS: No discussion.

2. CONFERENCES/EDUCATION

a. Kohtz UNL Farm and Rural Property Appraisal Course Presentation

Director Kohtz informed the Board that he gave a presentation to approximately fifty Farm and Rural Property Appraisal Course students at the University of Nebraska on October 3, 2018. The presentation focused on the real property appraiser profession and the appraiser qualifications criteria. The Director felt that the students were engaged in the presentation and asked very well thought out and detailed questions at the conclusion of the presentation. Director Kohtz finished by saying that this is a good class to give a presentation to because there is strong interest in the appraiser profession, and that he hopes that he is invited back in the future.

3. MEMOS FROM THE BOARD

a. Continuing Education Completion Document Submission Portal in Appraiser Login

Director Kohtz presented a proposed Memo From the Board concerning the Continuing Education Completion Document Submission Portal in Appraiser Login to the Board for consideration. The Director informed the Board that, although the staff was not ready, CIO activated the portal in production. Because the portal is active and staff is receiving questions regarding its use, it would be a good idea to explain the use and purpose of the portal to appraisers.

Chairperson Hynek expressed his reservations about the readiness and effectiveness of the portal. He attempted to add an activity to the portal but could not locate the activity that he was trying to submit. Board Member Mustoe asked why an education submission portal was developed without the ability to submit the application and make a payment by credit card. Director Kohtz informed the Board that an online application was not part of the scope for this project, and there is not current funding established for such of a project. The Director continued by informing the Board that the online application is on the long-term strategic planning agenda. The reason why it is not part of the current scope is because the Board requested funding in the amount of \$30,000.00 for online applications in 2012 based on the estimate received, but the Governor only authorized \$10,000.00 in the budget for this project. At the time, the Board decided that the funding amount was not enough to get the project off the ground and decided to delay this project until the database aspect is completed.

Board Member Mustoe indicated that he understands the submission portal is the future, but the education submission portal must work in conjunction with an online application; without an online application, there is no benefit to appraisers. Director Kohtz reminded the Board that the benefit to appraisers is the ability to submit and receive approval of continuing education in real time. This will spread the process out throughout the entire year and allow staff to be more efficient while processing renewal applications. Chairperson Hynek stated that appraisers would still submit most of the continuing education at the end of the year; that is the nature of appraisers.

The Chairperson then informed the Board that he was unaware of what this project included, and asked the other board members if any of them knew what this project was. Board Member Mustoe changed direction and asked the Director if the Board could add an online application to the project. Director Kohtz responded that the Board cannot add to the current database project because the legislature defined what projects the database allocation may be used for. The Director continued by saying that the Board does have carryover funds from the previous fiscal year available, but no research has been done on an online application project during the past few years, so there is a question as to if it is feasible time-wise and funding-wise.

Board Member Mustoe described his experience using online applications and education submission platforms in other states with ease. Mustoe referred to Iowa and Colorado as examples. The Board agreed that the process should be seamless before appraisers are invited to use the portal. Chairperson Hynek declared that building an online application portal is a high priority and should be a regular agenda item. Director Kohtz informed the Board that he will add the online application portal to the agenda and discuss this with CIO. Board Member McCormick recommended that all board members submit their education through the portal and provide feedback to the staff. The Board agreed with this request. There was no action taken on the Memo From the Board.

4. QUARTERLY NEWSLETTER

Board Member Mustoe recommended that the proposed Memo From the Board discussed today could be worked into the next newsletter. There was no further discussion.

5. APPRAISAL SUBCOMMITTEE: No discussion.

6. THE APPRAISAL FOUNDATION

a. AQB Public Meeting; May 3, 2019 – Denver, CO

Director Kohtz informed the Board that the AQB will hold a public meeting in Denver, Colorado on May 3, 2019. There was no further discussion.

b. Second Exposure Draft of Proposed Changes and Summary for 2020-21 USPAP

Director Kohtz presented the ASB's second exposure draft of proposed changes for the 2020-21 Edition of USPAP to the Board for review, and indicated that the second draft looks similar to the first exposure draft. The Director went on to inform the Board that this current draft includes the removal of the report type; major changes to existing definitions; the addition of new definitions; and simplified language throughout. Director Kohtz indicated that one major difference between the two drafts is that many of the comments previously removed were returned at the request of those who submitted responses to the ASB for the first exposure draft. The primary goal of the ASB continues to be improved clarity and the enforceability of USPAP. There was no further discussion.

7. IN THE NEWS

a. Appraisal Buzz Article–Why Appraisers Need an NMLS-Type Structure

Director Kohtz presented the Appraisal Buzz article titled “Why Appraisers Need an NMLS-Type Structure” to the Board for review. The Director informed the Board that he had no specific comments and asked the Board if it had any discussion concerning this article. 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:

- T18014 / Approve as Trainee Real Property Appraiser.**
- T18015 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**
- T18016 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**
- T18017 / Requirements for credentialing as a Trainee Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check. Send advisory letter**
- SA-T2018010 / Approve as Supervisory Appraiser.**
- SA-T18014 / Approve as Supervisory Appraiser.**
- SA-T18015 / Approve as Supervisory Appraiser.**
- SA-T18016 / Approve as Supervisory Appraiser.**
- CG18021R / Requirements for credentialing as a Certified General Real Property Appraiser approved as submitted. Authorize Director to issue credential upon completion of background check.**
- L18001 / Education and experience accepted. Approve to sit for exam and authorize Director to issue credential as a Licensed Residential Real Property Appraiser upon successful completion of exam.**
- CR18003 / Education and experience accepted. Approve to sit for exam and authorize Director to issue credential as a Certified Residential Real Property Appraiser upon successful completion of exam.**
- CG18017R / Deny; applicant shall not reapply for the same classification of credentialing for one year per 298 NAC Chapter 3 § 001.09C.**

Board Member Luhrs seconded the motion. Motion carried with Mustoe, McCormick, Luhrs, Hartman, 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:

- 18-07 / Dismiss without prejudice: send advisory letter**
- 18-01 / Authorize Special Assistant Attorney General Blake to file formal charges for violation of Neb. Rev. Stat. § 76-2237 and N.R.S. § 76-2238 (12)(16)(18), and authorize Director Kohtz to negotiate a consent agreement through SAAG Blake.**
- 18-06 / Adopt Cease and Desist Order; signed and executed by Chairperson Hynek.**
- 17-04 / Hold**

Board Member Luhrs seconded the motion. Motion carried with Mustoe, McCormick, Hartman, Luhrs, 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 McCormick seconded the motion. Motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye. At 11:18 a.m., Chairperson Hynek adjourned the October 17, 2018 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on October 31, 2018, in compliance with Nebraska Revised Statute § 84-1413 (5).