

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

January 17, 2019, Meeting Minutes

A. OPENING

Chairperson Ben Hynek called to order the January 17, 2019, 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 January 14, 2019 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 Nespor, and Administrative Specialist Katja Duerig, 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 McCormick seconded the motion. With no further discussion, the motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

C. ELECTION OF OFFICERS

Board Member Mustoe nominated Ben Hynek as Chairperson of the Board for 2019. Board Member McCormick seconded the nomination. With no further discussion, Hynek was elected with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

Board Member Luhrs nominated Chris Mustoe as Vice-chairperson of the Board for 2019. Board Member McCormick seconded the nomination. With no further discussion, Mustoe was elected 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 9:03 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 9:29 a.m. Board Member Luhrs seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

H. WELCOME AND CHAIR'S REMARKS

Chairperson Hynek said, "Welcome, less is more and Happy New Year."

I. BOARD MEETING MINUTES

1. APPROVAL OF DECEMBER 20, 2018 MEETING MINUTES

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

J. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of January 17, 2019. The Director noted a typical decline in the number of credentialed appraisers after January 1, 2019, adding that it was somewhat steady compared to the drop in number two years ago. The Director noted that the number of credential holders who obtained their credential through reciprocity continues to climb. Certified general numbers remain steady; this calendar year's twelve-month trend ended the same as it began at 359 total certified general appraisers. The certified residential numbers declined slightly, and licensed residential numbers continued the downward trend. Director Kohtz informed the Board that he anticipates that the licensed residential classification numbers will begin growing again if the Board's legislation is passed, as the as the licensed residential classification will have a direct path to the certified residential credential. Director Kohtz asked for any questions or comments. There was no further discussion.

2. TEMPORARY CREDENTIAL REPORT

Director Kohtz presented three charts outlining the number of temporary permits issued as of December 31, 2018. The Director noted that there were 172 temporary permits issued for the 2018 calendar year. Fewer permit applications were received in December 2018 than usual, which may have affected numbers for the year, but not alarmingly. 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 January 17, 2019. He explained that three have not renewed their appraiser credentials; one retired and two had trainees that did not renew their trainee credentials. The Director 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 January 17, 2019, and asked for any questions or comments. There was no further discussion.

5. CREDENTIAL RENEWAL PROGRESS REPORT

Director Kohtz presented two charts outlining the credential renewal progress through January 16, 2019. He stated that, after this month's late renewal applications are processed, the Board will hit its projected renewal rates for the licensed and certified classifications. The Director added that the trend of declining renewal numbers reversed this year, and renewal percentage numbers are on the increase. Director Kohtz informed the Board that the renewal rate percentage bottomed out at 88% a couple years ago. The Director stated that the Board's changes to the continuing education requirements have had a measurable positive impact on the number of renewals. Director Kohtz asked for any questions or comments. There was no further discussion.

K. FINANCIAL REPORT AND CONSIDERATIONS – JANUARY 2019

1. APPROVAL OF DECEMBER RECEIPTS AND EXPENDITURES

The receipts and expenditures for December were reviewed by the Director by line item with the Board in the Budget Status Report. Director Kohtz guided the Board to the data processing expense of \$4,047.89, which includes IMS bills for November and December. According to the Director, the Board was overcharged for applications development in November, so that bill was unpaid until it was corrected in December. Director Kohtz then brought attention to the \$46.09 amount for publication and print expenses, which includes the plaque given to Board Member Hartman for his service to the Board. The Director then commented on the other contractual services expense of \$2,333.50, which is higher than most months, but typical for December due to the high number background checks required for renewal applications. Additionally, appraiser applicant Standards 3-4 review costs are included in this expense. There were three applicants for credentialing who had reports reviewed and invoiced for this month. Director Kohtz then moved on to report that the total expenditures for this month amount to \$26,499.36, and the total revenues for the month amount to \$59,913.93. The Director informed the Board that expenditures amount to 37.27% of budgeted, and 50.14% of the fiscal year has passed. Director Kohtz then turned attention to specific revenues and reported the amount recorded for certified general renewals, certified residential renewals, licensed residential renewals, and the fingerprint audit program fees. He added that the revenues for December brought the year-to-date total to \$258,793.96, which is 82.49% 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 December. He commented on a posted transaction for the Department of Correctional Services found on page K.7, and informed the Board that that the aforementioned plaque was ordered through Cornhusker State Industries, which is the Department of Corrections. 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 \$26,499.36 in expenditures and \$59,913.93 in revenues were reported. Director Kohtz then remarked that the cash balance for the AMC fund is \$298,747.76, the Appraiser Fund is \$409,268.56, and the overall cash balance is \$708,016.32. Director Kohtz stated that the Appraiser Fund cash balance had not reached over \$400,000.00 in two years. The Director asked for any questions related to the graphs. There was no further discussion.

Board Member Luhrs moved to accept and file the December 2018 financial reports for audit. Board Member Hartman 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. 2019-2021 BIENNIAL BUDGET UPDATE

Director Kohtz reported that the Governor released his budget recommendations. No funding was included for the board member travel costs, database maintenance fees, or legal expenses as requested by the Board. The Director continued saying that, based on his preliminary review, very few agencies received funding above the current appropriations plus salary and healthcare. Director Kohtz informed the Board its hearing before the Appropriations Committee is scheduled for February 27, 2019, and that he will provide a detailed report at next month's regular meeting. At the February meeting, the Board will have to decide if it wishes to pursue reinstatement of any of the requested items. The Director suggested that the board member travel cost request is not critical, as the board members who travel do not utilize all of the funds as budgeted. Director Kohtz said that database maintenance funding and legal expenses might be worth looking at as these costs to the Board are rising. Chairperson Hynek thanked the Director for his report. There was no further discussion.

L. GENERAL PUBLIC COMMENTS

Public member Roger Morrissey appeared before the Board and thanked the Board for reconsidering the requirement that the Supervisory Appraiser and Trainee Course be completed by a certified appraiser within two years of submitting a supervisory appraiser application for each trainee real property appraiser. Morrissey expressed his view that it makes sense that supervisory appraisers would not need to be tested every two years.

Mr. Morrissey changed subjects and went on to say that a trainee real property appraiser application of someone from his office was recently approved. However, none of the potential supervisory appraisers from the office have taken the Supervisory Appraiser and Trainee Course within the past two years, so no one could furnish a complete supervisory appraiser application to the Board. Mr. Morrissey reported that a Supervisory Appraiser and Trainee Course will be held before the next regular meeting, but it doesn't seem right for a supervisory appraiser to have to wait to begin training if he or she has taken the Supervisory Appraiser and Trainee Course before and has previous experience as a supervisory appraiser. Mr. Morrissey asked that approval be granted to their supervisory appraiser applicant before the next meeting. Mr. Morrissey suggested that the Board give the Director authority to approve supervisory appraiser applications for appraisers who have previously held the supervisory appraiser designation. Chairperson Hynek said he sees this request as reasonable as long as the supervisory appraiser applicant has no disciplinary action taken against his or her credential, as this would be the only cause for the Board to deny the application. Board Member Mustoe agreed that, if there is nothing unusual about the application, there is no reason for the Board to see it.

Chairperson Hynek thanked Mr. Morrissey, and commented that the requirement that the Supervisory Appraiser and Trainee Course be completed by a certified appraiser within two years of submitting a supervisory appraiser application for each trainee real property appraiser is burdensome and the Board is taking steps to remove this requirement. Board Member Mustoe added that the Board is in a "No man's land" until the requirement is removed and must figure out how to navigate it. The Chairperson finished by saying that the Board will discuss Mr. Morrissey's request under Unfinished Business as it ties into the request made by Mr. Rose.

M. CONSIDERATION OF EDUCATION-INSTRUCTOR REQUESTS

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

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

ASFMRA

Property Rights: Why Haven't I Heard This Before (2191401.01) / 8 Hours – Brian Gatzke

Understanding Conservation Easement Valuation (2191402.01) / 7 Hours – Brian Gatzke

Appraisal Institute

Rural Valuation Basics (2191403.02) / 7 Hours – Jeffrey Jacobson

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

N. UNFINISHED BUSINESS

1. NRPAB OFFICE RELOCATION

Director Kohtz reported that progress is being made in the new office space. The Director indicated that the door is typically open and encouraged the board members to take a look inside during break. Chairperson Hynek asked if they could expect to meet at the new location for the February meeting. Director Kohtz responded that he has not been informed of a moving date, so he didn't know the answer yet. BLS Nespor said that the East side door has been locked, but may be open now. Board Member Mustoe thanked staff for the progress report. There was no further discussion.

2. OPEN AT-LARGE REPRESENTATIVE OF FINANCIAL INSTITUTIONS POSITION

Director Kohtz reported that Board Member Hartman has been recruiting and that there may possibly be an applicant. There was no further discussion.

3. ONLINE APPRAISER RENEWAL APPLICATION SUBMISSION PORTAL WITH ELECTRONIC PAYMENT

Chairperson Hynek informed the Board that there was not much to report on. The Office of the Chief Information Officer has been working on projects intermittently to get things ready, but there is nothing really to report specific to this project. Chairperson Hynek expressed his reservations as to how this project will be done by June. Director Kohtz indicated that Ms. Jurgens told him that the application itself could be done in one or two months if everything is ready before then. The Director also reported that around fifteen elements of the database had been tweaked this month, so it appears that CIO is clearing its workload to focus on this project. There was no further discussion.

4. ROSE REQUEST CONCERNING TWO YEAR SUPERVISORY APPRAISER AND TRAINEE COURSE REQUIREMENT FOR SUPERVISORY APPRAISERS

Director Kohtz presented a response received from Assistant Attorney General Hart pertaining to the subject of retroactive supervisory appraiser approval to the Board for review. AAG Hart indicated that it would not be permissible to back-date a supervisory appraiser approval. Chairperson Hynek acknowledged the response received from AAG Hart, and expressed confidence in Mr. Morrissey's idea that the Board grant approval authority to Director Kohtz for supervisory appraiser applications that meet all requirements. The Board agreed with the Chairperson's assessment. Chairperson Hynek asked Director Kohtz if there were any legal barriers to granting this authority to the Director. The Director informed the Board that he is unsure at the present time, and requested that the Board break to allow him time to research their question.

Break from 10:04 a.m. to 10:10 a.m.

Director Kohtz informed the Board that he is still unsure if the Board is able grant the Director authority to approve supervisory appraiser applications, but that he left a message with AAG Hart to discuss the matter. Chairperson Hynek informed the Board that discussion on this matter will be tabled for later in the meeting.

O. NEW BUSINESS: No discussion.

P. LEGISLATIVE REPORT AND BUSINESS

1. CURRENT LEGISLATION

Director Kohtz informed the Board that LB77 was introduced by Senator Williams on January 10, 2019 to update the Nebraska Real Property Appraiser Act to reduce barriers-to-entry into the real property appraiser profession, implement the Real Property Appraiser Qualifications Criteria adopted by The Appraisal Foundation's Appraiser Qualifications Board on May 1, 2018, and maintain compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Hearing before the Banking, Commerce, and Insurance Committee is scheduled for January 22, 2019. The Director finished by informing the Board that he will be providing testimony on the Board's behalf. There was no further discussion.

2. OTHER LEGISLATIVE MATTERS: No discussion.

Q. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS: No discussion.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. APPRAISER FORMS AND PROCEDURES: No discussion.

R. OTHER BUSINESS

1. BOARD MEETINGS

a. 2019 NRPAB Calendar

Director Kohtz presented the proposed 2019 NRPAB calendar to the Board for consideration. Present on the calendar were board meeting dates, Nebraska state holidays, AARO conference dates, the first and last days of the legislative session, and the beginning of the 2019-20 fiscal year. Director Kohtz asked for any questions or comments. With no discussion, Board Member Mustoe moved to approve the 2019 NRPAB calendar as presented. The motion was seconded by Board Member Luhrs, and carried with Mustoe, McCormick, Hartman, Luhrs and Hynek voting aye.

2. CONFERENCES/EDUCATION: No discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER: No discussion.

5. APPRAISAL SUBCOMMITTEE

a. Title XI as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act

Director Kohtz informed the Board that Title XI was amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act on May 24, 2019 by the Federal financial institutions regulatory agencies. The Director presented an amended copy of Title XI to the Board for review and guided the Board to page R.20 in the packet. Director Kohtz indicated that he has not spent much time analyzing the impact of the amendment on the Board's statutes, but has added this to the strategic planning agenda for 2019. The Director finished by saying that he plans to do some background research prior to the strategic planning meeting to have a better understanding of what changes, if any, need to be made to the Real Property Appraiser Act. The good news is that the Board's UPSAP update bill will be crafted for next year, and would be a good bill in which to include such changes. There was no further discussion.

6. THE APPRAISAL FOUNDATION: No discussion.

7. ASSOCIATION OF APPRAISER REGULATORY OFFICIALS: No discussion.

8. IN THE NEWS: No discussion.

N. UNFINISHED BUSINESS

4. ROSE REQUEST CONCERNING TWO YEAR SUPERVISORY APPRAISER AND TRAINEE COURSE REQUIREMENT FOR SUPERVISORY APPRAISERS

Chairperson Hynek informed the Board that all other agenda items have been completed, and that he is opening discussion on agenda item N.4. The Director informed the Board that he has no new information and recommended that the Board move to grant the Director the authority to approve supervisory appraiser applications contingent on AAG Hart's indication that such action would be legally permissible. Board Member Luhrs moved to grant the Director authority to approve all supervisory appraiser applications received at the Board's office if the applicant meets all requirements of the Real Property Appraiser Act and Title 298. The motion was seconded by Board Member Mustoe, and carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek.

Break from 10:25 a.m. to 10:42 p.m.

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 10:43 a.m. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

Board Member Luhrs moved to come out of executive session at 10:57 a.m. Board Member Mustoe seconded the motion. The motion carried with Mustoe, McCormick, Luhrs, Hartman, and Hynek voting aye.

Break from 11:00 a.m. to 12:02 p.m.

Director Kohtz reported that he had received a response from AAG Hart regarding the Board's ability to grant authority to the Director to approve supervisory appraiser applications. The Director then requested that the Board strike all previous discussion for agenda item N.4 and begin discussion by giving consideration to Guidance Document 19-01. Board Member Luhrs moved to strike the previous discussion related to N.4 and move agenda item N.4 to the end of the agenda. Board Member Hartman seconded the motion. With no further discussion, the motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

N. UNFINISHED BUSINESS

4. ROSE REQUEST CONCERNING TWO YEAR SUPERVISORY APPRAISER AND TRAINEE COURSE REQUIREMENT FOR SUPERVISORY APPRAISERS

Director Kohtz presented Guidance Document 19-01 to the Board for consideration, and explained that Mr. Rose requested that the Board back-date supervisory appraiser approval, but that is not legally permissible according to Assistant Attorney General Hart. Director Kohtz then referenced a response received from Assistant Attorney General Hart found on N.1 of the board packet pertaining to the subject of retroactive supervisory appraiser approval. Chairperson Hynek acknowledged the response received from AAG Hart. The discussion then turned to authorizing to the Director to approve supervisory appraiser applications. Chairperson Hynek expressed support for Guidance Document 19-01 and granting the Director the authority to approve supervisory appraiser applications for those applicants that meet all the requirements of the Nebraska Real Property Appraiser Act and Title 298. The Board agreed with the Chairperson. Board Member Luhrs moved to adopt Guidance Document 19-01. Board Member Mustoe seconded the motion. With no further discussion, the motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

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

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

- T18022 / Approve as Trainee Real Property Appraiser.**
- SA-T18022 / Approve as Supervisory Appraiser.**
- CG18026R / Approve as Certified General Real Property Appraiser.**
- CG18022 / Send redacted copy of Standards 3-4 Review Report for appraisal of agricultural property and request a written response.**
- CG18024 / Send redacted copy of Standards 3-4 Review Report for appraisal of residential property and request a written response.**
- CG18025 / Send redacted copy of Standards 3-4 Review Report for appraisal of residential property and request a written response.**

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

Board Member Mustoe moved to approve all renewal applications received at the Board's office postmarked between January 1, 2019 and January 15, 2019 with advisory letters contingent on the results of the background check if applicable. Board Member Luhrs seconded the motion. The motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye.

E. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY: No discussion.

F. CONSIDERATION OF DISCIPLINARY ACTIONS/ ENFORCEMENT MATTERS

Board Member Mustoe moved to take the following enforcement actions:

17-04 / Hold.

17-05 / Close.

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

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

S. ADJOURNMENT

Board Member Mustoe moved to adjourn the meeting. Board Member Luhrs seconded the motion. Motion carried with Mustoe, McCormick, Hartman, Luhrs, and Hynek voting aye. At 12:06 p.m., Chairperson Hynek adjourned the January 17, 2019 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on January 25, 2019, in compliance with Nebraska Revised Statute § 84-1413 (5).