

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

February 20, 2020 Meeting Minutes

Swearing in of new Board Member Bonnie Downing took place prior to the start of the meeting.

A. OPENING

Chairperson Ben Hynek called to order the February 20, 2020 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 on the State of Nebraska Public Calendar found at www.nebraska.gov on February 10, 2020. 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, 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, Wade Walkenhorst of Lincoln, Nebraska, and Bonnie Downing of Dunning, Nebraska, were present. Also present were Director Tyler Kohtz, Business and Licensing Specialist Allison Nespore, and Administrative Specialist Katja Duerig, who are all headquartered in Lincoln, Nebraska. Board Member Thomas Luhrs of Imperial, 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 Walkenhorst seconded the motion. With no further discussion, the motion carried with Mustoe, Walkenhorst, Downing, 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 Walkenhorst seconded the motion. The time on the meeting clock was 9:02 a.m. The motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye.

Board Member Mustoe moved to come out of executive session at 9:27 a.m. Board Member Walkenhorst seconded the motion. The motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye.

Break from 9:27 a.m. to 9:30 a.m.

G. WELCOME AND CHAIR'S REMARKS

Chairperson Hynek welcomed Board Member Downing to her first meeting. There were no members of the public present.

H. BOARD MEETING MINUTES

1. APPROVAL OF JANUARY 16, 2020 MEETING MINUTES

Chairperson Hynek asked for any additions or corrections to the January 16, 2020 meeting minutes. With no further discussion, Chairperson Hynek called for a vote. Board Member Mustoe moved to adopt the January 16, 2020 meeting minutes as presented. Board Member Walkenhorst seconded the motion. The motion carried with Mustoe, Walkenhorst, and Hynek voting aye. Board Member Downing abstained.

I. DIRECTOR'S REPORT

1. APPRAISER COUNT REPORT

Director Kohtz presented seven charts outlining the number of appraisers as of February 20, 2020. The Director reported that trends are unchanged and 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 credentials issued as of January 31, 2019. Director Kohtz remarked that the figures are typical and 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 February 20, 2020. The Director reported that trends are unchanged 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 February 20, 2020. The Director reported that the numbers were meeting expectations, and asked for any questions or comments. There was no further discussion.

Before proceeding to Financial Report and Considerations, Director Kohtz reported that Board Member Downing had her board member orientation meeting yesterday to bring her up to speed on the Board's operations and procedures. The Director commented that she picked everything up quickly. Director Kohtz then welcomed Board Member Downing, and informed her that he looked forward to serving her.

J. FINANCIAL REPORT AND CONSIDERATIONS – FEBRUARY 2020

1. APPROVAL OF JANUARY RECEIPTS AND EXPENDITURES

The receipts and expenditures for January were presented to the Board in the Budget Status Report. Director Kohtz brought attention to the Data Processing Expense of \$4,688.81, and said that this cost is related to the Online Appraiser Renewal Application Submission Portal with Electronic Payment. The Director explained that this amount represents two months of billing, because there was an issue with one bill that had to be resolved before it was paid. The Director had no more specific comments. Director Kohtz reported that expenditures for the month of January totaled \$29,230.62, and that the expenses amount to 50.19 percent of the budgeted expenditures for the fiscal year; 58.90 percent of the fiscal year has passed. Revenues reported for January were \$38,988.19, and total revenues amount to 84.42 percent of the projected revenues for the fiscal year. The Director asked for any questions or comments. There was no further discussion.

Director Kohtz then brought attention to the General Ledger for January. The Director reported that he had no specific comments, and asked for any questions or comments. There was no further discussion.

Director Kohtz presented three graphs showing expenses, revenues, and cash balance. The Director remarked that the cash balance for the AMC fund is \$278,877.15, the Appraiser Fund is \$342,778.79, and the overall cash balance for both funds is \$621,655.94. Director Kohtz asked for any questions related to the graphs. There was no further discussion.

Board Member Walkenhorst moved to accept and file the January 2020 financial reports for audit. Board Member Mustoe seconded the motion. The motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye.

2. PER DIEMS

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

K. GENERAL PUBLIC COMMENTS

No members of the public were present.

L. CONSIDERATION OF EDUCATION-INSTRUCTOR REQUESTS

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

NEW CONTINUING EDUCATION ACTIVITIES AND INSTRUCTORS

The Moore Group

2020-2021 7-Hour Equivalent USPAP Update Course (2202101.04) / 7 Hours –
Bradford Moore

Green in Residences and Appraisals (2202403.04) / 7 Hours – Bradford Moore

Sales Comparison: A Fresh Approach (2201406.04) / 7 Hours – Bradford Moore

Planit Omaha

2020 Commercial Real Estate Summit (2201404.14) / 8 Hours – Jerry Slusky

Appraisal Institute

Online Practical Applications of the Residential Sales Comparison Approach (2202405.02) / 4 Hours – Alan Simmons

McKissock, LLC

The FHA Handbook 4000.1 (2201407.03) / 7 Hours – Dan Bradley, Charles Huntoon, Larry McMillen

NEW QUALIFYING EDUCATION ACTIVITIES AND INSTRUCTORS

Appraisal Institute

2020-2021 15-hour Equivalent USPAP Course (1202101.02) / 15 Hours – Thomas Kirby

The Moore Group

2020-2021 15-Hour Equivalent USPAP Course (1202101.04) / 15 Hours – Bradford Moore

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

OTHER EDUCATION MATTERS

Board Member Mustoe moved to rescind the following education activities as listed:

Allterra Group LLC

FHA Appraisals and Reporting Requirements (2152425.27) / 7 Hours

Trans-American Institute of Professional Studies, Inc (TAIPS)

The Approaches to Value (Methodology and Applications) (1131409.09) / 30 Hours

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

M. UNFINISHED BUSINESS

1. ONLINE APPRAISER RENEWAL APPLICATION SUBMISSION PORTAL WITH ELECTRONIC PAYMENT

Director Kohtz reported that work on the Online Appraiser Renewal Application Submission Portal with Electronic Payment is on the home stretch for testing. The Director described one outstanding issue that BLS Nespor has been working on concerning how the payment is recorded. Director Kohtz reported that he will continue to update the Board on this matter, and asked for any questions or comments. There was no further discussion.

N. NEW BUSINESS

1. NEW ASSISTANT ATTORNEY GENERAL ASSIGNMENT – LAURA NIGRO

Director Kohtz reported that Natalee Hart has moved on from her position as the Board's Assistant Attorney General. The Director announced that Laura Nigro has been appointed to the position, and that he met with Ms. Nigro on Tuesday to provide for her a foundation regarding the Board and its business. There was no further discussion.

O. LEGISLATIVE REPORT AND BUSINESS

1. TITLE 298 UPDATE

Director Kohtz announced that he has received no comments to date, and that all preparations have been made for the hearing. There was no discussion.

2. CURRENT LEGISLATION

Director Kohtz presented the second legislative report of the current session to the Board for review. The Director informed the Board that he will provide a summary of the critical bills, but will not discuss the less critical bills unless a board member requests discussion. Discussion took place for the following bills:

LB381 – Director Kohtz informed the Board that this bill, which changes the expense reimbursement provisions for state officers and agencies, was presented to the Governor for signing. BLS Nespor informed Board Member Downing that this change would affect her. BLS Nespor said she would be paid a per diem rather than expenses claimed. There was no further discussion

LB775 – The Director indicated that this bill was introduced on the Board's behalf to update the Real Property Appraiser Act for compliance with Title XI, USPAP, and the ASC Policy Statements, which include changes to date references and definitions. LB775 also includes minor changes to address administration of the Act. The hearing for LB775 took place before the Banking, Commerce, and Insurance Committee on January 27, 2020, and was passed to General File on an 8-0 vote. Director Kohtz informed the Board that Senator Williams intends to combine LB775 with other bills as an amendment for General File debate.

LB790 – Director Kohtz reported that LB790, which changes state bidding requirements and contract approval procedures, was named a Committee Priority Bill.

LB909 – According to Director Kohtz, LB909 changes provisions relating to banking and finance, and allows the Department of Banking and Finance to comply with federal requirements.

LB925 – Director Kohtz informed the Board that LB925 changes provisions relating to standing to file a petition for a declaratory judgment. The Director added that the Nebraska Supreme Court interpreted section 84-911, regarding the filing of a petition for a declaratory judgement concerning the validity of any rule or regulation, as providing standing only to individuals who can show a concrete injury in fact, as a result of any challenged rule or regulation. This bill is intended to broaden the category of persons who have standing to seek relief under section 84-911.

LB929 – The Director indicated that LB929 provides an exemption to the Nebraska Real Estate License Act. He declared that this bill provides for an exception from the Real Estate Licensure Act for unlicensed person to make initial contacts and provide limited information on behalf of a broker or salesperson. Before any information is shared the unlicensed person must identify who they are, the name of their employer, the name of the broker or salesperson, and the name of the broker's or salesperson's real estate business on whose behalf the contact is being made.

LB981 – Director Kohtz reported that LB981 provides for applicability of provisions regarding state contracts for services to certain state entities. The Director commented that LB981 clarifies the definition of state agency director for the purpose of contracts entered into by a state agency.

LB982 – Director Kohtz declared that LB982 redefines the prohibition on use of state funds for advertising or promotional materials related to the Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, or Auditor of Public Accounts to no use of state funds at any time.

LB1167 – Director Kohtz informed the Board that LB1167 requires that public members be allowed to speak at each meeting subject to the Open Meetings Act. The Director remarked that, unlike the Board, not every agency allows public comment during every public meeting.

LB1187 – Director Kohtz reported that LB1187 changes provisions relating to the Occupational Board Reform Act. The Director explained that this bill represents a cookie-cutter reciprocity for all licenses. LB1187 would require that occupational boards issue an occupational license or government certification to an individual upon application if they meet a set of reasonable criteria through their work experience of a similar scope in another state, in lieu of the personal qualification requirements present in the application for that occupational license or government certificate. LB1187 would allow the occupational board to require the applicant pass a jurisprudential examination specific to relevant state law that regulates the occupation, if the occupational license or government certification requires an applicant pass a jurisprudential examination specific to relevant state statutes and administrative rules and regulations that regulate the occupation. Director Kohtz informed the Board that he discussed Title XI implications with Senator La Grone's office and requested that the Board be exempt from this bill, or that the bill include an exemption for agencies that must adhere to federal requirements. Senator La Grone's office requested that Director Kohtz speak with Laura Ebke with the Platte Institute to work out a resolution. Ms. Ebke indicated that she is willing to add language "not to be in conflict with federal requirements" to section 2 of the bill. The hearing before the Government, Military and Veterans Affairs Committee took place on February 13, 2020. The Director indicated that LB1187 was overwhelmingly opposed, and that it should not move out of committee.

Director Kohtz asked for any questions or comments concerning the legislative report. The Director requested that if there is a bill not included on this list that may be of importance to the Board, to contact him to have it added to the list. Chairperson Hynek thanked the Director for his report. There was no further discussion.

3. OTHER LEGISLATIVE MATTERS

a. Accountability and Disclosure Commission Notice of Change for Title 4, Chapter 2

Director Kohtz presented a letter from the Nebraska Accountability and Disclosure Commission regarding changes to Title 4, Chapter 2 of the Nebraska Administrative Code. The Director reported that the change affecting the Board is that “Real Estate Appraisers Board” is being updated to “Real Property Appraisers Board.” There was no further discussion.

P. ADMINISTRATIVE BUSINESS

1. GUIDANCE DOCUMENTS: No discussion.

2. INTERNAL PROCEDURAL DOCUMENTS: No discussion.

3. APPRAISER FORMS AND PROCEDURES

a. NRPAB State of Nebraska Reimbursement Manual

Director Kohtz presented the NRPAB State of Nebraska Reimbursement Manual to the Board for consideration. The Director remarked that he was reviewing testimony of the Nebraska Auditor of Public Accounts office for LB381, and was caught off guard by a comment made concerning meals served by a hotel during overnight travel. According to the Director, if a hotel serves breakfast or dinner, such meal expense cannot be claimed in addition to the expense included with the cost of the hotel. Director Kohtz indicated that he discussed what constitutes “breakfast” and “dinner” with Mary Avery in the Auditor of Public Accounts office. The Director then brought attention to the draft language found on page P.4, and indicated that there is no language in the State Accounting Manual regarding meals served by a hotel, so the intent is to provide guidance to board members and staff as to when breakfast and/or dinner included with the cost of the hotel is not reimbursable. The Director also reported that the 2020 mileage changes are also included in this draft. Chairperson Hynek brought attention to grammatical errors in the drafted language, such as the use of “e.i” and “ect.” Board Member Walkenhorst also noted that the date in the section pertaining to air travel is incorrectly stated as 2019, rather than 2020. Director Kohtz apologized for the errors, and indicated that these items will be corrected. Board Member Walkenhorst moved approve the NRPAB State of Nebraska Reimbursement Manual as amended. Board Member Mustoe seconded the motion. The motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye.

Q. OTHER BUSINESS

1. BOARD MEETINGS

Director Kohtz brought attention to the regularly scheduled May 21, 2020 meeting. Board Member Downing and Board Member Walkenhorst had previously reported that they will be unable to attend this meeting, and Chairperson Hynek was not sure whether he could. Chairperson Hynek confirmed that his plans had changed, and he would be able to attend the May 21 meeting. There was no further discussion.

2. CONFERENCES/EDUCATION: No discussion.

3. MEMOS FROM THE BOARD: No discussion.

4. QUARTERLY NEWSLETTER

a. Winter 2020 Edition of The Nebraska Appraiser

Director Kohtz presented the Winter 2020 Edition of The Nebraska Appraiser to the Board for consideration. The Director informed the Board that Board Member Downing's photo will replace the placeholder photo in the "In the Spotlight" article concerning Board Member Downing's appointment. Board Member Mustoe moved to approve the Winter 2020 Edition of The Nebraska Appraiser as amended. Board Member Walkenhorst seconded the motion. The motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye.

5. APPRAISAL SUBCOMMITTEE: No discussion.

6. THE APPRAISAL FOUNDATION

a. The Appraisal Foundation Opens Call for Board of Trustees Members

Director Kohtz announced that The Appraisal Foundation published an open call for Board of Trustees members. There was no further discussion.

b. Bunton January 7, 2020 Letter to U.S. House Committee on Financial Services

Director Kohtz presented a letter from Dave Bunton to the U.S. House Committee on Financial Services, in which Mr. Bunton requests that the Committee request a Government Accountability Office study about the original intent of Congress in enacting Title XI versus the impact of Title XI today. There was no further discussion.

c. Bunton January 7, 2020 Letter to U.S. Senate Committee on Banking, Housing, and Urban Affairs

Director Kohtz presented a letter from Dave Bunton to the U.S. Senate Committee on Banking, Housing, and Urban Affairs, in which Mr. Bunton requests that the Committee request a Government Accountability Office study about the original intent of Congress in enacting Title XI versus the impact of Title XI today. There was no further discussion.

d. TAF: Congress Requests GAO Study of FIRREA

Director Kohtz presented an announcement released by The Appraisal Foundation that the U.S. House Committee on Financial Services requested that the Government Accountability Office conduct a comprehensive study on the implementation of Title XI by the relevant federal agencies. There was no further discussion.

e. Upcoming Meetings

Director Kohtz announced that The Appraisal Foundation's Board of Trustees next meeting will be held on April 30 – May 2, 2020, in San Diego, California; the next AQB public meeting will be held on May 15, 2020 in New Orleans, Louisiana; and the next ASB public meeting will be held on July 10, 2020 in Torrance, California. There was no discussion.

7. ASSOCIATION OF APPRAISER REGULATORY OFFICIALS: No discussion.

8. IN THE NEWS

a. Appraisal Buzz Article – 8 Common Violations Made by Appraisers

Director Kohtz presented the Appraisal Buzz article titled “8 Common Violations Made by Appraisers” to the Board for review, and informed the Board that he had no specific comments, but that he found the article interesting. There was no discussion.

C. CREDENTIALING AS A NEBRASKA REAL PROPERTY APPRAISER

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

- T20001 / Approve as Trainee Real Property Appraiser. Send advisory letter.**
- T20002 / Approve as Trainee Real Property Appraiser. Send advisory letter.**
- CG20004R / Approve as Certified General Real Property Appraiser.**
- CG20005R / Approve as Certified General Real Property Appraiser.**
- CG20006R / Approve as Certified General Real Property Appraiser.**
- CR20001 / Approve experience hours as submitted and authorize staff to send reports for third-party review per standard procedure.**

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

Board Member Mustoe moved to authorize agency to approve all renewal applications received at the Board's office on or before February 18, 2020 with advisory letter, contingent on the results of the background check if applicable, if all requirements for renewal are met by the applicant. Board Member Walkenhorst seconded the motion. Motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye.

D. REGISTRATION AS APPRAISAL MANAGEMENT COMPANY

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

- NE2012026 / Approve for renewal of registration as an Appraisal Management Company. Send advisory letter.**

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

E. CONSIDERATION OF COMPLIANCE MATTERS

Board Member Mustoe moved to take the following enforcement actions:

- 20-01 / Authorize Special Assistant Attorney General Blake to file formal charges for violation for Neb. Rev. Stat. § 76-3216(4)(c).**

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

F. CONSIDERATION OF OTHER EXECUTIVE SESSION ITEMS

1. T2016002

The Board discussed a matter in which a trainee real property appraiser has registered a business name as a legal entity with the Secretary of State. Board Member Mustoe moved to send an advisory letter concerning the requirements for advertising as a trainee real property appraiser. Board Member Downing seconded the motion. Motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye.

2. PERSONNEL MATTERS: No discussion.

R. ADJOURNMENT

Board Member Downing moved to adjourn the meeting. Board Member Mustoe seconded the motion. Motion carried with Mustoe, Walkenhorst, Downing, and Hynek voting aye. At 10:06 a.m., Chairperson Hynek adjourned the February 20, 2020 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Tyler N. Kohtz
Director

These minutes were available for public inspection on February 27, 2020, in compliance with Nebraska Revised Statute § 84-1413 (5).