

NEBRASKA REAL ESTATE COMMISSION

June 16, 2011

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Acting Chairperson Griess convened a meeting of the Nebraska Real Estate Commission at 9:02 a.m. on June 16, 2011, in the Staybridge Room of the Staybridge Suites, located at 2701 Fletcher Avenue in Lincoln, Nebraska. All of the members of the Real Estate Commission were present, with the exception of Chairperson Gale, who was absent and excused. Also present were Director Greg Lemon, Deputy Director for Education and Licensing Teresa Hoffman, Deputy Director for Enforcement Terry Mayrose, and Administrative Assistant Monica Rut.

Notice of Meeting (Adopt Agenda)

Director Lemon presented a public notice and proofs of publication thereof relating to this meeting, all of which are attached to and made a part of these minutes. Acting Chairperson Griess reported that all Commissioners had been notified of the meeting simultaneously, by mail and e-mail, and that a proposed tentative agenda accompanied the notification.

Acting Chairperson Griess pointed out to those in attendance that a public copy of the materials being used during the meeting were available to the public on the counsel table in the meeting room; that a copy of the Open Meetings Act was posted on the easel located in the northwest corner of the meeting room by the west entrance; and that the procedures followed were in accordance with the Open Meetings Act. Acting Chairperson Griess asked that guests sign the guest list.

Director Lemon noted that no agenda items had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Ptak and seconded by Leisey to adopt the final agenda as presented. Motion carried with Avery, Dover, Griess, Leisey, Ptak and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Minutes of May 19, 2011

The minutes of the Commission meeting held on May 19, 2011, were considered.

After review, a motion was made by Leisey and seconded by Avery to approve the minutes as presented. Motion carried with Avery, Dover, Griess, Leisey, Ptak and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Public Comment

Acting Chairperson Griess asked the members of the audience if anyone wished to come forward to provide public comment on Commission related business. No audience member indicated a desire to come forward.

Receipts and Expenditures Report for May

Director Lemon presented the Receipts and Expenditures Report for May. A copy of said report is attached to and made a part of these minutes. Director Lemon noted that an explanation page was included on the report.

The cash fund balance as of May 31, 2011, was \$516,192.81, which compared to a cash fund balance of \$637,968.73 on May 31, 2010.

After discussion, a motion was made by Leisey and seconded by Ptak to file the May Receipts and Expenditures Report for audit. Motion carried with Avery, Dover, Griess, Leisey, Ptak and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Renewal Report

Director Lemon presented the Renewal Report. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

Specialized Registrations

There were no specialized registrations to be presented at the meeting.

Nonresident Licenses and Resident Licenses Issued to Persons Holding Licenses in Other Jurisdictions Report

Deputy Director Hoffman presented for ratification the Nonresident Licenses and Resident Licenses Issued to Persons Holding Licenses in Other Jurisdictions Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Leisey and seconded by Avery to ratify issuance of the licenses as set forth in the report. Motion carried with Avery, Dover, Griess, Leisey, Ptak and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Examination Report - May

Deputy Director Hoffman presented for ratification the May Examination Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Ptak and seconded by Rouch to ratify the May Examination Report for the purpose of issuing licenses. Motion carried with Avery, Dover, Griess, Leisey, Ptak and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Real Estate Education Matters

Pre-License Education Instructor Approval

Deputy Director Hoffman presented for ratification the Pre-License Education Instructor Approval Report, a copy of which is attached to and made a part of these minutes.

Continuing Education Activity Approval

Deputy Director Hoffman presented for ratification the Continuing Education Activity Approval Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Leisey and seconded by Ptak to ratify the two reports. Motion carried with Avery, Dover, Griess, Leisey, Ptak and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Report on Instructor Development Workshop Held May 24

Deputy Director Hoffman reported that the workshop was held on May 24, 2011. There had been thirty individuals registered for the entire day. The presenter was Dr. Carmel Streater who discussed performance related training. She indicated that Dr. Streater received good evaluations from those in attendance. Deputy Director Hoffman noted that Commissioners Avery, Dover and Griess attended the workshop.

Commissioner Dover indicated that he felt Dr. Streater covered a lot of information and felt she demonstrated her experience in the different areas discussed. Commissioner Griess indicated that while Dr. Streater was very knowledgeable and covered plenty of subjects, she felt the training was basic information not as detailed as had been presented by other instructors in previous workshops. Deputy Director Hoffman indicated that Dr. Streater's content was theory based rather than focusing on classroom application techniques. She noted that she was looking forward to planning the next workshop and had ideas of other instructors and content.

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Mayrose presented a summary report of the pending complaints, which included a list of licensees presently under disciplinary action or on appeal. A copy of said report is attached to and made a part of these minutes.

No action was necessary on this report.

The following sworn complaints and investigative matters were presented to the Commission:

Item A Complaint 2010-042 – Ruth Richter vs. Craig William Horobik

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Dover and seconded by Leisey that the complaint be dismissed without prejudice. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Item B Complaint 2010-043 – Koren Gross vs. Chelsea Lynn Petersen

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Dover and seconded by Leisey that the complaint be dismissed without prejudice. Motion carried with Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Avery voting nay, and with Gale not participating or voting, being absent and excused.

Item C Complaint 2010-045 - Alan & Ardith Hackbarth vs. Ronald James Perry

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Rouch and seconded by Avery that the complaint be dismissed without prejudice.

Commissioner Leisey offered an amendment to include a letter of admonishment be sent to the Respondent. The amendment was accepted by the mover and second.

Motion carried with Avery, Leisey, Ptak, and Rouch voting aye, with Dover and Griess voting nay, and with Gale not participating or voting, being absent and excused.

Item D Complaint 2010-046 – Victoria Hesse vs. Susan M. Wolfe

Prior to discussion of this matter, Commissioner Dover recused himself, thereby nullifying any potential conflict of interest.

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Avery and seconded by Leisey that the complaint be dismissed without prejudice.

Motion carried with Avery, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused, with Dover not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

Item E Complaint 2010-049

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Dover and seconded by Ptak that this complaint be held in abeyance and a new complaint be filed against the Respondent per the Staff recommendation.

Acting Chairperson Griess offered an amendment to include the alleged violation that the Respondent had the Buyer sign for a copy of the fully accepted offer before the Seller signed the acceptance of the offer. The amendment was accepted by the mover and second.

Commissioner Avery offered an amendment to include the alleged violation that the Respondent failed to review the final closing statement prepared by the closing agent/attorney. The amendment was accepted by the mover and second.

Motion carried with Avery, Dover, Griess, Leisey, Ptak and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Item F Complaint 2010-050 – John A Beyersdorf vs. Martina Petra Doetsch

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Avery and seconded by Rouch that the complaint be dismissed without prejudice. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Item G Complaint 2010-052 – Thomas & Mary Zeman vs. Jeanne Patrick and David Anton Moody

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Rouch and seconded by Avery that the complaint be dismissed without prejudice.

Commissioner Leisey offered an amendment to send a letter of admonishment to the Respondent. It was accepted by the mover and second.

Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Item H Complaint 2010-055 – Planned Parenthood of the Heartland Foundation vs. Daniel Matthew Malone

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Rouch and seconded by Leisey that the complaint be dismissed without prejudice. Motion carried with Griess, Leisey, Ptak, and Rouch voting aye, with Avery and Dover voting nay, and with Gale not participating or voting, being absent and excused.

Item I Complaint 2010-057 – Lori Armitage vs. Gary Joseph Coolidge

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Leisey and seconded by Ptak that the complaint be dismissed without prejudice.

Motion carried with Avery, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused. Dover nay

A motion was made by Dover to send a letter of admonishment to the Respondent's broker. The motion died for lack of a second.

After further discussion, it was the consensus of the Commission to publish an article in the Commission Comment newsletter regarding Designated Brokers responsibilities.

Item J Complaint 2010-060

Deputy Director Mayrose presented the alleged violations and investigative report to the Commission and, when necessary, answered questions on this matter.

After being advised of the results of the investigation and discussion, a motion was made by Dover and seconded by Ptak that the complaint be set for hearing per Staff recommendation. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

A motion was made by Dover and seconded by Leisey to send a letter of admonishment to the Respondent's broker. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Presentation of Stipulation and Consent Orders

There were no Stipulation and Consent Orders to be presented at the meeting.

Hearings

**June 17, 9:15 a.m. – Complaint 2009-057,
Commission vs. Kevin Dean McCully**

A Hearing scheduled for June 17 at 9:15 a.m., in the matter of Complaint 2009-057 has been continued.

Informal Special Appearances

David M. Herrera, Potential Applicant

Director Lemon explained that the Informal Special Appearance scheduled for David M. Herrera has been postponed.

Ezekiel McBeth, Potential Applicant

Director Lemon presented exhibits which included: correspondence regarding Mr. McBeth's special appearance; a summary from Mr. McBeth regarding his prior conviction, and character reference letters for Mr. McBeth. Mr. McBeth was present.

Acting Chairperson Griess reviewed the procedure for informal special appearances.

Mr. McBeth explained the situations regarding his past criminal history.

After discussion, a motion was made by Dover and seconded by Leisey to allow Mr. McBeth to sit for the salesperson examination after making proper application and to have a license issued upon passing, as long as nothing in addition to what Mr. McBeth reported to the Commission appears on the Criminal Background Report. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Katherine Elizabeth Meyer, Broker Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Meyer's special appearance; Ms. Meyer's criminal history report; an explanation of Ms. Meyer's license history; notes taken by a staff member regarding Ms. Meyer's convictions and her broker application form. A copy of said exhibit is attached to and made a part of these minutes. Ms. Meyer was present.

Acting Chairperson Griess reviewed the procedure for informal special appearances.

Ms. Meyer distributed letters of reference and a Trial Exhibit List of Defendants Shea Degan and Daniel Conway in case number 8:08 CV 231 in the United States District Court of Nebraska. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13c1.

Ms. Meyer explained the situations regarding her past criminal history.

At 4:10 p.m., a motion was made by Dover and seconded by Leisey to go into closed session for the purpose of preventing needless injury to the reputation of an individual or individuals involved in this matter. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Acting Chairperson Griess indicated, prior to the closed session beginning, that the reason for the closed session was to prevent needless injury to the reputation of an individual or individuals involved in this matter.

At 4:33 p.m., a motion was made by Leisey and seconded by Dover to reconvene in open session. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

After reconvening in open, public session, Acting Chairperson Griess indicated that there were additional questions the Commissioners wished to ask Ms. Meyer.

After further discussion, a motion was made by Avery and seconded by Rouch that Ms. Meyer not be allowed to sit for the broker examination at this time. Motion failed with Avery and Ptak voting aye, with Dover, Griess, Leisey and Rouch voting nay, and with Gale not participating or voting, being absent and excused.

A motion was made by Leisey and seconded by Dover to allow Ms. Meyer to sit for the broker examination after making proper application and to have a license issued upon passing with the condition that Ms. Meyer notify the Commission staff of any felony or misdemeanor charges from June 16 until the end of her first two years of licensure. Also, if Ms. Meyer has any charges during this time period, the decision allowing her to sit for her license examination may be revoked or disciplinary action may be taken against her license. Motion carried with Dover, Griess, Leisey and Rouch voting aye, with Avery and Ptak voting nay, and with Gale not participating or voting, being absent and excused.

Commission Objectives

Update on 2010-2011 Objectives

Director Lemon presented an exhibit regarding the 2010-2011 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the progress made since the third quarter report had been reviewed. He also noted that at the next meeting he would bring the 2011-2012 Commission Objectives for review.

A motion was made by Ptak and seconded by Rouch to approve the Commission Objectives as presented. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

There was discussion regarding the Commission's objectives for 2011-2012. The exploration and use of social media by the Commission was discussed. It was the consensus of the Commission to form a task force to research acceptable social media to be used by Commission Office. Commissioners Dover and Leisey volunteered to serve on the social media task force.

Consideration of Changes to the Seller Property Condition Disclosure Statement

Director Lemon presented an exhibit of the proposed changes to the Seller Property Condition Disclosure Statement. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained that the exhibits reflected the comments and suggestions received to date regarding the proposed changes to the Seller Property Condition Disclosure Statement. He indicated that any changes to the Seller Property Condition Disclosure Statement would require changes to the Commission's Rules and Regulations and a public hearing would be held.

There was discussion regarding a final review of the Seller Property Condition Disclosure Statement be sent to interested parties prior to the public hearing.

The Commissioners reviewed the suggested changes and provided additional changes to Director Lemon which included adding a space for the Buyer's initials at the bottom of each page; adding language under the "other conditions" section which asks "are there are any other conditions with the property that would adversely affect the desirability or value of this property"; change question 8 in Section D to 8a and 8b; and some formatting changes.

It was the consensus of the Commission to incorporate the suggested changes into the Sellers Property Condition Disclosure Statement.

There was also discussion to place an article in the Commission Comment newsletter regarding the responsibilities of a licensee regarding the Seller Property Condition Disclosure Statement.

Consider Renewal of Errors and Omissions Insurance Contract with Rice Insurance Services Company, LLC (RISC) for 2012

Director Lemon presented an exhibit regarding the 2012 Renewal of Contract Quotation from Rice Insurance Services Company, LLC (RISC). A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that the errors and omissions insurance coverage and underwriter would be the same as the current year. He noted that the terms and premium amount would remain the same as the current program.

It was discussed that a copy of the Quarterly report which is sent to the Director be provided to the Commissioners for review.

After discussion, a motion was made by Ptak and seconded by Leisey to approve the renewal of contract with RISC for 2012. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

Information Matters

ARELLO District Conference – Orange Beach, Alabama – August 12-14, 2011

Director Lemon noted that those wishing to attend the ARELLO District Conference in Orange Beach, Alabama on August 12-14, 2011 needed to make their hotel reservations by July 11 and they would need to pre-register with ARELLO by July 29.

No action was necessary on this report.

Future Meeting Dates

August 18-19, 2011 - Staybridge Suites, Lincoln
September 15-16, 2011 – Hampton Inn & Suites, Lincoln
October 27-28, 2011 - Staybridge Suites, Lincoln
December 6-7, 2011 – Staybridge Suites, Lincoln

Recesses and Adjournment

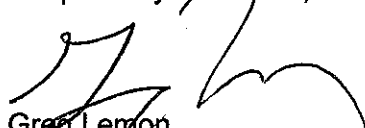
At 10:20 a.m., Acting Chairperson Griess declared a brief recess, and reconvened the meeting at 10:37 a.m.

At 12:09 p.m., Acting Chairperson Griess declared a recess for lunch, and reconvened the meeting at 3:25 p.m.

At 4:40 p.m., there being no further business to come before the Commission, a motion was made by Leisey and seconded by Rouch that the meeting adjourn. Motion carried with Avery, Dover, Griess, Leisey, Ptak, and Rouch voting aye, with Gale not participating or voting, being absent and excused.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the June 16, 2011, meeting of the Nebraska Real Estate Commission were available for inspection on June 24, 2011, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,


Greg Lemon
Director

Guests Signing the Guest List

Kristen Anderson, Nebraska REALTORS® Association, Lincoln

Deda Myhre, CBSHome Real Estate, Omaha

Janice Wiebusch, Kearney

Jack McSweeney, Kearney