

NEBRASKA REAL ESTATE COMMISSION

June 22, 2017

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:03 a.m. on June 22, 2017, 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 Commissioner Dover, who was absent and excused. Also present were Director Greg Lemon, Deputy Director for Education Alane Roubal, Deputy Director for Enforcement Duran Cell, and Deputy Director for Licensing 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. Chairperson Gale 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.

Chairperson Gale pointed out to those in attendance that a public copy of the materials being used during the meeting were available 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. Chairperson Gale 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 Alloway and seconded by Freeman to adopt the final agenda as presented. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Minutes of May 25, 2017

The minutes of the Commission meeting held on May 25, 2017, were considered. (Note: It was discovered prior to the meeting that the Exhibit for this Agenda Item was incorrect. In reference to Stipulation and Consent Order 2015-023, the first motion which died for a lack of a second was to include a one-hundred eighty day suspension, when in fact, it noted a one-hundred eight day suspension. The Exhibit was corrected for attachment to these minutes.)

After review, a motion was made by Freeman and seconded by Stange to approve the minutes as amended. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Public Comment

Chairperson Gale 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, 2017, was \$1,864,958.47, which compared to a cash fund balance of \$1,564,520.06 on May 31, 2016. (Note: It was discovered during the meeting that the Exhibit for this Agenda Item was incorrect. The date of the 2016 comparison was set forth as "April 30, 2016" when, in fact, the date should have been "May 31, 2016". The Exhibit was corrected for attachment to these minutes.)

After discussion, a motion was made by Stange and seconded by Titus to file the May Receipts and Expenditures Report for audit. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

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 Rut 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 Freeman and seconded by Alloway to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Examination Report - May

Deputy Director Roubal 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 Freeman and seconded by Stange to ratify the May Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Examination Passing Roster

Deputy Director Roubal presented the Examination Passing Roster, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Real Estate Education Matters

Continuing Education Activity Approval

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

Continuing Education Activity Significant Change

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

Continuing Education Instructor Approval

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

Broker-Approved Training Activity Recognition

Deputy Director Roubal presented a Broker-Approved Training Activity Recognition Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Freeman and seconded by Titus to ratify the four reports. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Continuing Education Activity Rejection

Deputy Director Roubal presented a Continuing Education Activity Rejection Report, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Cell 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.

There was discussion regarding the complaint procedures and the current circumstances in which the Commission could file a complaint on its own motion. Director Lemon explained that traditionally complaints are filed when a formal sworn complaint is submitted to the Commission

or on the Commission's motion when a matter of uncontroverted public record, such as a criminal conviction or license revocation in another jurisdiction occurs. There was also discussion that the Commission could, but had not in the recent past, file a complaint on its own motion in instances of advertising violations where the advertising on its face does not comply with Commission advertising rules.

No action was necessary on this report.

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

Item A Complaint 2016-012 – Alexander & Meghan Elliot vs. Kathleen Lee Mumgaard

Deputy Director Cell 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 Freeman and seconded by Titus that the complaint be dismissed without prejudice.

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

Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, and with Dover not participating or voting, being absent and excused. Gale abstained.

Item B Complaint 2016-013 – Craig Nelson vs. Scott Robert Koethe

Deputy Director Cell 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 Stange and seconded by Freeman that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Item C Investigative Matter

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

Deputy Director Cell presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Freeman and seconded by Stange that this matter be set for a show-cause hearing to determine why the licensee's Nebraska real estate license should not be sanctioned for failing to abide by the informal special appearance conditions. Motion carried with Bourne, Freeman, Stange, Titus and Gale voting aye, with Alloway not participating or voting, having recused himself, thereby nullifying any potential conflict of interest, and with Dover 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 this meeting.

Disciplinary Hearings

There were no disciplinary hearings scheduled to be held at the meeting.

Informal Special Appearances

There were no informal special appearance scheduled at the meeting.

2016-2017 Objectives – Final Report

Director Lemon presented an exhibit regarding the 2016-2017 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the changes and current status for the objectives listed, and that most objectives for the year had been completed, with some noted exceptions.

No action was necessary on this discussion.

Consider 2017-2018 Objectives

Director Lemon presented an exhibit regarding the proposed 2017-2018 Objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained each of the new objectives and those which had been carried over from the 2016-2017 Objectives. He welcomed any additions the Commissioners may have for the proposed objectives.

After discussion, a motion was made by Titus and seconded by Stange to approve the Commission Objectives as presented. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Approval of Reappointment of Pre-Hearing Officers

Director Lemon presented a list of the current pre-hearing conference officers. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that there are currently two and more could be acquired should the Commission desire.

A motion was made by Titus and seconded by Freeman to reappoint the current pre-hearing officers and give Director Lemon the authority to extend their agreements until June 30, 2019. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Personnel Matter – Closed Session

At 11:52 p.m., a motion was made by Titus and seconded by Alloway to go into closed session for discussion of personnel matters. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Chairperson Gale indicated, prior to the closed session beginning, that the reason for the closed session was to discuss personnel matters.

At 12:32 p.m. a motion was made by Titus and seconded by Alloway to go into open session. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

After reconvening in open, public session, a motion was made by Titus and seconded by Freeman to increase Director Lemon's salary by one percent beginning July 1, 2017. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Consider Approval of Special Assistant Attorneys General 2017-2019 Fee Schedule

Director Lemon presented an exhibit of the proposed hourly rate schedule for the special assistant attorneys general to become effective July 1, 2017. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained that the finance subcommittee met in December regarding the proposed fee schedule. It was suggested at that time that the fee schedule be reviewed every two years to coincide with the Commissions fiscal year. The proposed fee schedule was reviewed and it was recommended by the finance committee that the hourly rate schedule be approved as presented.

There was discussion regarding the rates other agencies are charged by the appointed assistant attorneys generals and how the firms are assisted to the agencies.

After discussion, a motion was made by Stange and seconded by Freeman to approve the hourly rate schedule as presented effective July 1, 2017 ending June 30, 2019. Motion carried with Alloway, Bourne, Freeman, Stange and Gale voting aye, with Titus voting nay, and with Dover not participating or voting, being absent and excused.

Consideration of Criteria For Applicants With Criminal Convictions

Director Lemon presented an exhibit of the Commission's Policies and Interpretations relating to original application with criminal convictions. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon discussed the current criteria used for applicants with criminal convictions. He further explained that he sought clarification for circumstances when the applicant has an interlock device and welcomed any suggestions or changes to the current process.

It was further discussed that in item number five of the Guidelines for Original Applicants with Criminal Convictions, Commissioner Freeman suggested the word "immediately" should be revised to a time period such as 10 days and that the applicant should notify the Commission staff and their designated broker of any future criminal charges or convictions.

It was the consensus of the Commission that the Commission staff research the criteria and make recommended changes to the guidelines and present them at a future meeting.

Amendment to Examination Contract to Extend Contract Through June 30, 2019 and Consideration of Examination Fee

Director Lemon presented an exhibit regarding a proposed amendment to the examination contract, a copy of which is attached to and made a part of these minutes.

Director Lemon explained that the amendment would extend the licensing examination contract with Applied Measurement Professionals (AMP) now PSI Services Inc (PSI) beyond the current expiration date of July 1, 2017, through June 30, 2019. He explained that the original contract had been awarded in 2015 to administer the examination with three opportunities to extend the contract for two-years. He further indicated that he felt the performance of the examination company had been satisfactory and recommended that the Commission extend the contract through June 30, 2019.

There was discussion regarding the possible changes for future contracts. There was also discussion regarding a representative from PSI being available at a future meeting to discuss the examination and allow the Commissioners to gain confidence in the examination process.

After discussion, a motion was made by Freeman and seconded by Titus to approve the contract renewal as presented. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, with Dover not participating or voting, being absent and excused.

Legislative Matters – Final Report

Director Lemon presented an exhibit regarding the final report of the Legislative matters for 2017 which is attached to and made a part of these minutes.

Director Lemon indicated that no changes had been made since the May Commission meeting.

No action was necessary with regard to these matters.

Information Matters

ARELLO District Conference – June 8-10, 2017 – Charleston, WV – Report of Attendees

Director Lemon noted that Deputy Director Rut and he attended the ARELLO District Conference.

Each of the Attendees discussed their experiences at the ARELLO Meeting.

No action was necessary on this report.

ARELLO Annual Conference - September 20-24, 2017 - Honolulu, HI

Director Lemon explained that the deadline for accommodations is August 25, 2017, and asked which Commissioners were planning on attending the conference. Commissioner Freeman, Titus and Chairperson Gale planned on attending along with Director Lemon and Deputy Director Rut.

No action was necessary on this report.

Future Meeting Dates

August 17-18, 2017 – Staybridge Suites, Lincoln
September 28-29, 2017 – Staybridge Suites, Lincoln
October 19-20, 2017 – Country Inns & Suites, Lincoln
November 16-17, 2017 – Staybridge Suites, Lincoln

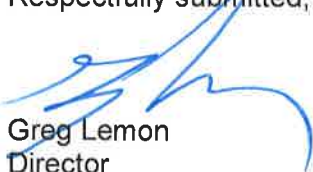
Recesses and Adjournment

At 10:37 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:56 a.m.

At 12:35 p.m., there being no further business to come before the Commission, a motion was made by Titus and seconded by Alloway that the meeting adjourn. Motion carried with Alloway, Bourne, Freeman, Stange, Titus and Gale voting aye, and with Dover 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 22, 2017, meeting of the Nebraska Real Estate Commission were available for inspection on June 26, 2017, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Jeff Hebb, Nebraska REALTORS® Association, Lincoln
Joe Gehrki, CBSHOME, Omaha
Jim McCord, J.J. Palmtag, Nebraska City
Arla Meyer, Nebraska Realty, Lincoln
Mari Jo Mentzer, HomeServices, Lincoln