

NEBRASKA REAL ESTATE COMMISSION

October 17, 2019

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on October 17, 2019, 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. Also present were Director Greg Lemon, Deputy Director for Education Alane Roubal, Deputy Director for Enforcement Ken Dahlke, and Deputy Director for Licensing Monica Rut.

Swearing-In Ceremony- Commissioner Lisa Ritter

Chairperson Evnen conducted a swearing-in ceremony for recently appointed Commissioner Lisa Ritter. Director Lemon presented her with her Commission pin, and Chairperson Evnen and the other Commissioners welcomed Commissioner Ritter to the Commission.

Notice of Meeting (Adopt Agenda)

Director Lemon presented a public notice thereof relating to this meeting, which is attached to and made a part of these minutes. Chairperson Evnen 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 Evnen 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 Evnen 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 Starman and seconded by Gehrki to adopt the final agenda as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Minutes of September 26, 2019

The minutes of the Commission meeting held on September 26, 2019, were considered.

After review, a motion was made by Titus and seconded by Gehrki to approve the minutes as presented. Motion carried with Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye, and with Ritter not voting having not been in attendance at the September Meeting.

Public Comment

Chairperson Evnen 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 September

Director Lemon presented the Receipts and Expenditures Report for September. 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 September 30, 2019, was \$1,343,817.19, which compared to a cash fund balance of \$1,338,117.37 on September 30, 2018.

After discussion, a motion was made by Starman and seconded by Titus to file the September Receipts and Expenditures Report for audit. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

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 Titus and seconded by Gehrki to ratify issuance of the licenses as set forth in the report. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Examination Report - September

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

After review, a motion was made by Gehrki and seconded by Bourne to ratify the September Examination Report for the purpose of issuing licenses. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

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.

PSI Third Quarter School Reports

Deputy Director Roubal presented the PSI Review of Examination Performance Reports for comparison for the period of July 1, 2019 through September 30, 2019, copies of which are attached to and made a part of these minutes. (Note: It was discovered at the meeting that the Exhibit for this Agenda Item was incorrect. This report should reflect only first time test takers but based on the passing percentage provided on the report, it appears that PSI provided the passing percentage for all test takers in error. This report will be further reviewed with PSI and brought back for review at the next Meeting.)

Deputy Director Roubal explained that she would work with PSI to get the reports corrected and provide an updated report at the next Meeting.

There was discussion regarding the authority given to the Commission Staff to promote improving the provider's or instructor's performance or review or take action in cases of extreme underperformance. Deputy Director Roubal indicated that currently she audits new instructors and provides them feedback regarding her review as well as working with them through IDW's to promote better performance. Deputy Director Roubal said she would continue to monitor and report the pre-licensing schools performance to the Commission that the effectiveness of these improvement efforts can be evaluated and future action determined.

No action was necessary on this report.

ARELLO Jurisdictional Information

Deputy Director Roubal presented the ARELLO Static Jurisdiction Information regarding how many times applicants can sit for the examination each year in each jurisdiction. A copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained that at the September Meeting there was discussion regarding testing limits in other jurisdictions. She noted that most jurisdictions allow for unlimited examinations, which is consistent with Nebraska.

There was discussion regarding the time frame in which Nebraska applicants can take and retake the examination, the rotation of examination questions and if there was an adequate bank of examination questions. Deputy Director Roubal indicated that after initially taking both the State and National portion of the examination, an applicant can retake the failed portion 3 additional times or within 6 months before retaking both portions again. She also noted that an applicant can potentially take an examination twice in one week depending on availability.

No action was necessary on this report.

Real Estate Education Matters

Pre-License Education Instructor Approval

Deputy Director Roubal 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 Provider/Activity Approval

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

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 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.

Commission-Approved Training Provider/Activity Recognition

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

Commission-Approved Training Activity Recognition

Deputy Director Roubal presented a Commission-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 Starman and seconded by Dover to ratify the six reports. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Minutes from Education Advisory Group – Additional Third Quarter

Deputy Director Roubal presented the Minutes from the Education Advisory Group-Additional Third Quarter, a copy of which is attached to and made a part of these minutes.

Deputy Director Roubal explained reviewed the Minutes as presented. She noted that the Group had mostly talked about pre and post licensing so far but noted that the topic of discussion for the next meeting would be the development of the designated broker class so that it is ready for July 2020.

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Dahlke 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 2017-022

Deputy Director Dahlke 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 Gehrki and seconded by Ritter that the complaint be dismissed without prejudice and a letter of admonishment be sent to the Respondent. Motion failed with Ritter, Gehrki, and Evnen voting aye and with Bourne, Dover, Starman and Titus voting nay.

After discussion, a motion was made by Titus and seconded by Bourne that the complaint be set for hearing. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Item B Complaint 2018-036 - Jeri Schlickbernd vs. Gary Lee Carpenter & Linda M Carpenter

Deputy Director Dahlke 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 Starman and seconded by Bourne that the complaint be dismissed without prejudice and a letter of admonishment be sent to the Respondents. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Presentation of Stipulation and Consent Orders

**Complaint 2017-023,
Commission vs. Matthew Rasmussen**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2017-023, Commission vs. Matthew Rasmussen. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Titus and seconded by Dover to enter into the Order as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

**Complaint 2018-021,
Commission vs. Tiffany Ann Reinders**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2018-021, Commission vs. Tiffany Ann Reinders. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Titus and seconded by Gehrki to enter into the Order as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Disciplinary Hearings

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

Informal Special Appearances

Heather Marie Schmit, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Schmit's special appearance; a letter of explanation from Ms. Schmit; character reference letters for Ms. Schmit; Ms. Schmit's salesperson application form; trial court cases from the State of Nebraska on Ms. Schmit's cases; and Ms. Schmit's criminal history report. A copy of said exhibit is attached to and made a part of these minutes. Ms. Schmit was present.

Chairperson Evnen reviewed the procedure for informal special appearances.

Ms. Schmit explained the situations regarding her criminal history.

After discussion, a motion was made by Starman and seconded by Gehrki to allow Ms. Schmit to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Schmit must notify any anticipated employing broker of the criminal convictions and the circumstances of the convictions and said broker shall confirm said notification in writing to the Commission prior to the license being placed with said broker. Ms. Schmit must also notify the Commission staff of any criminal charge, except those charges where there is no possible sentence of jail time within five days for a period of three years. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

2019-2020 Objectives – Quarterly Report

Director Lemon presented an exhibit regarding the proposed 2019-2020 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 the current status for the objectives listed.

No action was necessary on this discussion.

Findings of Fact and Conclusions of Law-Preliminary Informal Special Appearance

Adam James Nesbitt

Director Lemon presented a Findings of Fact and Conclusions of Law Order pursuant to Adam James Nesbitt's Preliminary Informal Special Appearance. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained that the Preliminary Informal Special Appearance was a new process which required an official findings of fact and conclusions of law on the matter. He noted that the proposed findings reflect Mr. Nesbitt's reported criminal history, and the Commission's determination that Mr. Nesbitt was not suitable for licensure and, pursuant to the law and as provided in the order, not eligible to reapply for the preliminary informal special appearance for two years.

Chairperson Evnen indicated that if the draft was acceptable, the Commission would need to approve the order.

A motion was made by Bourne and seconded by Starman to approve the findings of fact and conclusions of law order as presented for Adam James Nesbitt. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Review and Approval of Travel

ARELLO Executive Meeting

Deputy Director Rut presented an exhibit regarding the estimated costs of Staff to attend the ARELLO Executive Meeting. A copy of said exhibit is attached to and made a part of these minutes.

ARELLO Leadership Symposium and Board of Directors Meeting

Deputy Director Rut presented an exhibit regarding the estimated costs of Staff to attend the ARELLO Leadership Symposium and Board of Directors Meeting. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Gehrki and seconded by Dover to approve the travel and reimbursement of expenditures to attend the meetings as set forth in the exhibit. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

Information Matters

Errors and Omissions Loss Report – Third Quarter 2019

Director Lemon presented the Errors and Omissions Loss Report – Third Quarter 2019. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained report.

No action was necessary with regard to this matter.

Future Meeting Dates

November 21-22, 2019 – Staybridge Suites, Lincoln
January 23-24, 2020 – Country Inn & Suites, Lincoln
February 27-28, 2020 - Staybridge Suites, Lincoln
March 19-20, 2020 - Staybridge Suites, Lincoln
April 16-17, 2020 - Staybridge Suites, Lincoln
May 21-22, 2020 - Staybridge Suites, Lincoln
June 18-19, 2020 - Staybridge Suites, Lincoln

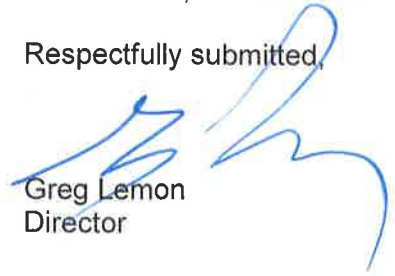
Recesses and Adjournment

At 10:35 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:45 a.m.

At 11:18 a.m., there being no further business to come before the Commission, the Chairperson declared the meeting adjourned.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the October 17, 2019, meeting of the Nebraska Real Estate Commission were available for inspection on October 21, 2019, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

- James McCord, Nemaha Valley Board of Realtors, Nebraska City
- Sam Malson, Legislative Fiscal Office, Lincoln
- Christie Bevington, Nebraska REALTORS® Association, Lincoln
- Kim Zwiener, Sellstate Empire, Lincoln