

NEBRASKA REAL ESTATE COMMISSION

June 21, 2018

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:05 a.m. on June 21, 2018, 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, and Deputy Director for Enforcement Duran Cell.

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 was 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 agenda item 19 Consider Changes to the Commission's Sample Residential Purchase Agreement 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 Titus to adopt the final agenda as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Minutes of May 24, 2018

The minutes of the Commission meeting held on May 24, 2018, were considered.

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

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, 2018, was \$1,762,999.18, which compared to a cash fund balance of \$1,864,958.47 on May 31, 2017.

After discussion, a motion was made by Alloway and seconded by Titus to file the May Receipts and Expenditures Report for audit. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Specialized Registrations

Time-Share Registration Amendment – ClubWyndham Access Vacation Ownership Plan (Non-Specific Site)

Director Lemon presented a specialized registrations report that included the registration of amendment to time-share registration for ClubWyndham Access Vacation Ownership Plan (Non-Specific Site). A copy of said report is attached to and made a part of these minutes.

A motion was made by Starman and seconded by Dover to approve the amendments to the registration as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

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

Deputy Director Roubal 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 Starman and seconded by Dover to ratify issuance of the licenses as set forth in the report. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

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 Alloway and seconded by Bourne to ratify the May Examination Report for the purpose of issuing licenses. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale 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.

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.

Pre-License Education Course Significant Change

Deputy Director Roubal presented for ratification the Pre-License Education Course Significant Change 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.

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.

Broker-Approved Training Provider/Activity Recognition

Deputy Director Roubal presented a Broker-Approved Training Provider/Activity Recognition 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 Titus and seconded by Alloway to ratify the eight reports. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

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 some discussion about upcoming hearings and possible changes to Exhibit 10 to highlight the linkage between cases when a matter is held in abeyance and a new complaint is filed by the Commission.

No action was necessary on this report.

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

Item A Complaint 2017-015 – Steven Svoboda v. Michael Patrick Dennis

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 Starman that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Item B Complaint 2017-018

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 Alloway that this complaint be held in abeyance and a new complaint be filed against the respondent per the Staff recommendation. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Presentation of Stipulation and Consent Orders

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

Disciplinary Hearings

Complaint 2017-017 Commission v. Matthew John Beers

The Hearing regarding Complaint 2017-017, Commission v. Matthew John Beers was continued at the request of the Respondent's Counsel.

Informal Special Appearances

Yvonne D. Blankenship, Salesperson Applicant

Director Lemon presented exhibits which included: correspondence regarding Ms. Blankenship's special appearance; a letter of explanation from Ms. Blankenship; a Set Aside notice dated July 21, 2010; character reference letters for Ms. Blankenship; Ms. Blankenship's

salesperson application form; and Ms. Blankenship's criminal history report. A copy of said exhibit is attached to and made a part of these minutes. Ms. Blankenship was present.

Chairperson Gale reviewed the procedure for informal special appearances.

Ms. Blankenship explained the situations regarding her criminal history.

After discussion, a motion was made by Alloway and seconded by Starman to allow Ms. Blankenship to sit for the salesperson examination after making proper application and to have a license issued upon passing. Ms. Blankenship 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. Blankenship 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 two years. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Jason Ray Brasch, Salesperson Applicant

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

Chairperson Gale reviewed the procedure for informal special appearances.

Mr. Brasch explained the situations regarding his criminal history.

After discussion, a motion was made by Freeman and seconded by Starman to allow Mr. Brasch to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Brasch 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. Mr. Brasch 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 Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Susan Marie Henson - Broker Applicant

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

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

Chairperson Gale reviewed the procedure for informal special appearances.

Ms. Henson explained the situations regarding her criminal history.

After discussion, a motion was made by Freeman and seconded by Dover to allow Ms. Henson to sit for the Broker examination after making proper application, and to have a license issued upon passing. Motion carried with Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye, with Alloway, not participating or voting, having recused himself.

2017-2018 Objectives – Final Report

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

Director Lemon explained the outcomes of the 2017-2018 objectives.

No action was necessary on this report.

Consider 2018-2019 Objectives

Director Lemon presented an exhibit regarding the proposed 2018-2019 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes

It was agreed that Goal #8 of the 2017-2018 Objectives-- Explore Implementation of LB16 Provisions Relating to Exemptions from Trust Account Requirements for Brokers—be added as number 10 to the 2018-2019 objectives.

A motion was made by Freeman and seconded by Alloway to adopt the Commission Objectives with that change. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Consider Renewal of Errors and Omissions Insurance Contract with Williams Underwriting Group for 2019

Director Lemon presented an exhibit regarding the 2019 Renewal of Contract Quotation from Williams Underwriting Group (WUG). 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 would remain the same as the current program, and the premium amount would not be increased.

A motion was made by Titus and seconded by Dover to approve the renewal of contract with WUG for 2019 as presented. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Awarding of Database Contract under RFP2018-1

Director Lemon explained that five proposals were received for the new database. Director Lemon provided Exhibit 17, a scoresheet for the five proposals. The results were tabulated based on reviews by the evaluation team plus scoring from a mathematical formula on price

quotes. The results were fairly close between the top three bidders. Director Lemon proposed that rather than award to the vendor with the highest score, it would be prudent to go ahead with the optional interviews to aid with the selection process. Director Lemon explained that a special meeting of the Commission would have to be held in July to approve the contract award in order to expedite database development.

No action was necessary on this report.

Consider Adoption of Revised Commission Policy and Interpretation on Use of Unlicensed Assistants

Director Lemon presented an exhibit regarding the Revised Commission Policy and Interpretation on Use of Unlicensed Assistants. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Freeman and seconded by Titus to approve the revision which added #7 – Assist in procuring prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real state -- to the list of activities which cannot be performed by unlicensed persons indicated in Policies and Interpretations. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Consider changes to the Commission's Sample Residential Purchase Agreement

Director Lemon presented an exhibit containing the Commission's Sample Residential Purchase Agreement. A copy of said exhibit is attached to and made a part of these minutes.

Chris Heinrich, Special Assistant Attorney General and Counsel to the Commission, was present to discuss changes.

After discussion, a motion was made by Bourne and seconded by Titus that NREC cease providing the residential purchase agreement form. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Personnel Matter – Closed Session

At 1:18 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, Dover, Freeman, Starman, Titus, and Gale voting aye.

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

At 2:17 p.m., a motion was made by Titus and seconded by Alloway to reconvene in open session. Motion carried with Alloway, Bourne, Dover, Freeman, Titus, and Gale voting aye, with Starman not participating or voting, being absent and excused.

A motion was then made by Titus and seconded by Alloway that Director Lemon's salary be increased by 2% beginning July 1, 2018. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

Information Matters

ARELLO Annual Meeting - September 26-30, 2018 - St. Louis, Missouri

Director Lemon explained that online registration is now open for the 2018 Annual Conference and Commissioner College to be held at the Ritz-Carlton, St. Louis on September 26th-30th.

No action was necessary on this report.

Future Meeting Dates

August 16-17, 2018 – Staybridge Suites, Lincoln
September 20-21, 2018 – Staybridge Suites, Lincoln
October 18-19, 2018 – Country Inn & Suites, Lincoln
November 15-16, 2018 – Staybridge Suites, Lincoln

Recesses and Adjournment

At 10:18 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 10:31 a.m.

Chairperson Gale was briefly excused from the meeting at 11:42 a.m., and rejoined the meeting at 11:45 a.m.

Commissioner Dover was briefly excused from the meeting at 12:14 p.m., and rejoined the meeting at 12:16 p.m.

At 12:20 p.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 12:31 p.m.

Commissioner Starman was briefly excused from the meeting at 2:17 p.m., and rejoined the meeting at 2:19 p.m.

At 2:25 p.m., there being no further business to come before the Commission, a motion was made by Alloway and seconded by Titus that the meeting adjourn. Motion carried with Alloway, Bourne, Dover, Freeman, Starman, Titus, and Gale voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the June 21, 2018, meeting of the Nebraska Real Estate Commission were available for inspection on June 27, 2018, 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
James McCord, Nemaha Valley Board of Realtors, Nebraska City
Trudy Meyer, CBSHOME, Omaha
Mari Jo Mentzer, NP Dodge, Omaha
Christie Bevington, Nebraska REALTORS® Association, Lincoln
Sr. Stephanie Matcha, self, Omaha
Chris Heinrich, O'Neill Heinrich Damkroger Bergmeyer & Shultz, Lincoln

