

NEBRASKA REAL ESTATE COMMISSION

January 24, 2019

Staybridge Suites

Staybridge Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:05 a.m. on January 24, 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 Duran Cell, and Deputy Director for Licensing Monica Rut.

Presentation of Commissioner Pin – Robert B. Evnen, Secretary of State of Nebraska

Commissioner Alloway presented Chairperson Evnen with his Commissioner pin, and welcomed him to the Commission. Chairperson Evnen said it was an honor and a pleasure to serve on the Commission.

Swearing-In Ceremony of Commissioner Joe Gehrki

Chairperson Evnen conducted a swearing-in ceremony for recently appointed Commissioner Joe Gehrki, presented him with his Commissioner pin, and welcomed him to the Commission.

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 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 agenda items 19e and 19f 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 Dover to adopt the final agenda as presented. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Minutes of November 15, 2018

The minutes of the Commission meeting held on November 15, 2018, were considered.

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

Financial Matters

Receipts and Expenditures Reports for November and December

Director Lemon presented the Receipts and Expenditures Reports for November and December. Copies of said reports are attached to and made a part of these minutes. Director Lemon noted that an explanation page was included in each report.

The cash fund balance as of November 30, 2018, was \$1,630,625.50, which compared to a cash fund balance of \$1,835,883.54 on November 30, 2017.

The cash fund balance as of December 31, 2018, was \$1,712,673.81, which compared to a cash fund balance of \$1,942,206.47 on December 31, 2017.

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

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.

Governor's Budget Recommendation

Director Lemon presented the Governor's Budget Recommendation. A copy of said report is attached to and made a part of these minutes.

Director Lemon explained that the Commission had requested a budget increase due to health insurance costs which, among other automatic adjustments, was included in the Governor's Budget Recommendation. Director Lemon noted that there were no transfers of funds to the general fund included in the Governor's Budget Recommendation in the next biennium.

No action was necessary on this report.

Specialized Registrations

Time-Share Registration - Amendment for CLUBWYNDHAM ACCESS VACATION OWNERSHIP PLAN

Director Lemon presented a specialized registrations report which included the registration of amendment to time-share registration for CLUBWYNDHAM ACCESS VACATION OWNERSHIP PLAN. A copy of said report is attached to and made a part of these minutes.

Time-Share Registration - Amendment for Marriott Vacation Club Destinations

Director Lemon presented a specialized registrations report which included the registration of amendment to time-share registration for Marriott Vacation Club Destinations. A copy of said report is attached to and made a part of these minutes.

Retirement Community Registration - Amendment for IMMANUEL LAKESIDE VILLAGE

Director Lemon presented a specialized registrations report which included the registration of amendment to the retirement community registration for IMMANUEL LAKESIDE VILLAGE. A copy of said report is attached to and made a part of these minutes.

Subdivided Land Registration - Amendment for Reynolds Lake Oconee

Director Lemon presented a specialized registrations report which included the registration of amendment to subdivided land registration for Reynolds Lake Oconee. A copy of said report is attached to and made a part of these minutes

A motion was made by Alloway and seconded by Dover to approve the amendments to the four registrations as presented. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

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

Examination Reports – November and December

Deputy Director Roubal presented for ratification the November and December Examination Reports, copies of which are attached to and made a part of these minutes.

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

Examination Passing Rosters

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

No action was necessary on this report.

Fourth Quarter PSI School Reports

Deputy Director Roubal presented the PSI Review of Examination Performance Reports for comparison for the period of October 1, 2018 through December 31, 2018, copies of which are attached to and made a part of these minutes.

Deputy Director Roubal explained the scores and each of the reports relating to the national tests and the school reports.

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.

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 Activity Recognition

Deputy Director Roubal presented a Broker-Approved Training 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 Dover to ratify the six reports. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

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.

Commissioner Alloway asked that Minutes from the Education Advisory Committee be provided to the Commission for review. He indicated that there had been recommendations at the past Education Advisory Committee meeting regarding items for the Commission to discuss that should have been on the Agenda for this Commission Meeting, which were omitted. Director Lemon indicated that there was information that needed to be further discussed prior to being presented to the Commission. Deputy Director for Education Roubal indicated that the next Education Advisory Committee meeting had not been scheduled yet but would likely be held in February.

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.

No action was necessary on this report.

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

Item A Complaints 2018-010; 2018-011; 2018-012; 2018-013; 2018-014; 2018-031

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 Bourne and seconded by Titus that these complaints be held in abeyance until the judicial process has been completed.

After further discussion, a motion was made by Alloway and seconded by Starman that these complaints be tabled until next meeting pending further investigation. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye

Item B Complaint 2018-016

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

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

Alloway not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

Item C Complaint 2018-017 - James J. Urban vs. Troy Arthur Trumm

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 Alloway and seconded by Gehrki that the complaint be dismissed without prejudice. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

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

Le'Keaton Tremelle Hayes, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Alloway and seconded by Dover to allow Mr. Hayes to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Hayes 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. Hayes must also notify the Commission staff and Designated Broker 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.

Commissioner Titus offered an amendment that Mr. Hayes have his motor vehicle operator's license reissued prior to sitting for the examination. The amendment was accepted by the mover and the second.

Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Christine Jean Steele, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

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

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

Jonathan James Young, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

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

A motion was made by Alloway and seconded by Dover that Mr. Young not be allowed to sit for the salesperson examination at this time. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Joshua Douglas Christie, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

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

After discussion, a motion was made by Titus and seconded by Starman to allow Mr. Christie to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Christie 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.

Christie must also notify the Commission staff and Designated Broker 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, Gehrki, Starman, Titus and Evnen voting aye.

2018-2019 Objectives – Quarterly Report

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

Director Lemon explained each of the objectives and the updates since the last quarterly report

No action was necessary on this report.

Review and Approval of Travel to 2019 Regularly Attended Meetings

Deputy Director Rut presented an exhibit regarding the estimated costs of Commissioners and staff participating in regularly attended meetings in 2019. A copy of said exhibit is attached to and made a part of these minutes.

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

Annual Review and Approval of Procedures and Cycle for Trust Account Examinations

Director Lemon presented a reference copy of the Commission's Approved Procedures and Cycle for Trust Account Examinations. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon indicated that there were no recommended changes to the document.

After discussion, a motion was made by Bourne and seconded by Titus to approve the exhibit as presented. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Consider Approval of Special Assistant Attorneys General Appointment

Director Lemon presented a letter from the Attorney General's Office appointing Adam Prochaska and Chris Heinrich as Special Assistant Attorneys General for the Nebraska Real Estate Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that Mr. Heinrich's and Mr. Prochaska's appointments expires December 31, 2019.

A motion was made by Starman and seconded by Dover to authorize Director Lemon to ratify the appointment by the Attorney general and utilize the services of the Special Assistant Attorneys General pursuant to any existing or future memorandums of understanding effective for the time period of their appointment. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Consider Procedures for Implementation of Review of Potential Applicants with Criminal Histories under LB299 (2018)

Director Lemon presented an exhibit of the proposed procedures for implementation of review of potential applicants with criminal histories under LB299 passed by the legislature in 2018. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained that during last Legislative session, LB299 was introduced and was opposed by Commission. However, this bill was passed and will go into effect on July 1, 2019. The bill requires that a review of the occupational licensing programs be conducted every five years. The Commission has not been notified when this review will occur. He further explained that a preliminary review process is now required so that applicants that have a criminal history may be reviewed by the Director and appear before the Commission prior to submitting an application and criminal background report to the Commission Office as currently required. He noted that LB299 allows an agency to charge for a review fee up to one hundred dollars. Director Lemon reviewed the proposed procedures set forth in the memo.

There was discussion regarding the possibility of some applicants having to appear before the Commission more than one time. There was also discussion regarding administration costs being more than one hundred dollars allowed in the bill.

After discussion, a motion was made by Titus and seconded by Gehrki to adopt Director Lemon's recommendation for implementation as set forth in the memo. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

Legislative Matters

LB12 - Director Lemon reported that this bill was carried over from last year and he would continue to monitor. He indicated that last year he was directed to support the bill and wanted to know the Commission's position this legislative session. A motion was made by Bourne and seconded by Titus that the Commission support this bill. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

LB55 - Director Lemon reported that he would monitor this bill as it may be of interest to licensees that persons eighteen years of age may be authorized to acquire or convey title to real property.

LB130 – Director Lemon reported that this bill is regarding radon resistant new construction requirements which he would monitor.

LB258 – Director Lemon reported that the changes related to banking and finance provisions but referenced a federal agency in the License Act which is being changed. He indicated that he would monitor this bill since the License Act would be changed.

LB384 – Director Lemon reported that this bill is being introduced at the request of the Commission and the Nebraska REALTORS Association recommendation. This is regarding pre-license and post license requirements for designated broker. He noted that he would testify in support of this bill.

LB454 – Director Lemon reported that this bill would eliminate the high school diploma-or equivalent requirement for a real estate license.

There was discussion regarding the Department of Education’s requirements regarding home schooling. There was also discussion regarding information to develop a mechanism for those home schooled to be recognized or some equivalency.

After discussion, a motion was made by Gehrki and seconded by Alloway to oppose the bill as presented with suggested comments to include language to encourage a mechanism to recognize homeschoolers.

Chairperson Evnen offered an amendment that a letter be sent to the Judiciary Committee and Senator Clements by Director Lemon and Chairperson Evnen. The amendment was accepted by the mover and the second. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, and Evnen voting aye and with Titus voting nay.

Information Matters

Errors and Omissions Loss Report – Fourth Quarter 2018

Director Lemon presented the Errors and Omissions Loss Report – Fourth Quarter 2018. A copy of said exhibit is attached to and made a part of these minutes.

There was discussion regarding the report and it was the consensus of the Commission that further clarification of the columns be provided for the next quarterly report.

No action was necessary with regard to this matter.

ARELLO Mid-Year Meeting – Salt Lake City, Utah – April 10-13, 2019

Director Lemon explained that the deadline for hotel registration is March 11, 2019.

No action was necessary on this report.

ARELLO Leadership Conference – Tucson, Arizona – January 8-10, 2019 – Report of Attendees

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

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

No action was necessary on this report.

Future Meeting Dates

February 21-22, 2019 – Staybridge Suites, Lincoln
March 21-22, 2019 – Staybridge Suites, Lincoln
April 18-19, 2019 – Staybridge Suites, Lincoln
May 23-24, 2019 – Staybridge Suites, Lincoln
June 20-21, 2019 – Staybridge Suites, Lincoln

Recesses and Adjournment

At 10:32 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:42 a.m.

At 12:15 p.m., there being no further business to come before the Commission, a motion was made by Bourne and seconded by Alloway that the meeting adjourn. Motion carried with Alloway, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the January 24, 2019, meeting of the Nebraska Real Estate Commission were available for inspection on January 29, 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
- Charles Chadwick, CNC Realty, Omaha
- Perre Neilan, Omaha Area Board of Realtors, Omaha
- Debbie Mitchell, Omaha
- Mari Jo Mentzer, NP Dodge, Omaha

