

**NEBRASKA REAL ESTATE COMMISSION**

**June 25, 2020**

**Country Inn & Suites**

**Lighthouse Room**

**Lincoln, NE**

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**Opening**

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:02 a.m. on June 25, 2020, in the Lighthouse Room of the Country Inn & Suites, located at 5353 N 27<sup>th</sup> Street in Lincoln, Nebraska. All of the members of the Real Estate Commission were present. Also present were Director Greg Lemon, and Deputy Director for Licensing Monica Rut.

**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 northeast corner of the meeting room by the east 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 May 21, 2020**

The minutes of the Commission meeting held on May 21, 2020, were considered.

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

**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 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, 2020, was \$1,686,135.28, which compared to a cash fund balance of \$1,567,844.62 on May 31, 2019.

After discussion, a motion was made by Titus and seconded by Starman to file the May 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 Gehrki and seconded by Dover 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 - 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 Bourne and seconded by Ritter to ratify the May 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.

## **Real Estate Education Matters**

### **Pre-License Education Course Approval**

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

### **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.

### **Post-License Education Course Approval**

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

### **Post-License Education Instructor Approval**

Deputy Director Roubal presented for ratification the Post-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 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 Activity Recognition**

Deputy Director Roubal presented a Commission-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 seven reports. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

A motion was made by Gehrki and seconded by Titus the mandatory thirty day wait requirement for the education providers offering course numbers 0003, 7000 and 6000 may be waived until August 31 at the discretion of Director Lemon.

Chairperson Evnen indicated that many volunteers in other licensed professions who attended poll or election worker training were able to get continuing education credit from their regulatory body for this civic duty. He raised the question of the Commission's ability to develop a method as a consideration to have Commission-Approved Training incorporate such credit and asked the other Commissioner's opinions. After further discussion, it was suggested that Director Lemon and staff report the possibility of civic training to be considered as credit for continuing education purposes.

### **Pending Sworn Complaints and Investigative Matters**

Director Lemon 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 2019-032 - Kay Rowe vs. Ryan Ervin Renner

Director Lemon 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. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

**Item B** Complaint 2020-005 & 2020-006

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

After discussion, it was the consensus of the Commission that this matter be held in abeyance pending further investigation.

**Item C** Complaint 2019-038

Director Lemon 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 Ritter that the complaint be set for hearing.

After further discussion, an amendment was offered by Gehrki to amend the complaint relating to agency violations not set forth in the original complaint. The amendment was approved by the mover and the second.

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

**Item D** Complaint 2020-015 - Lyle Thelen vs. Bridget M. Whitmire

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

**Item E** Complaint 2020-014 - Paul Thompson vs. Teresa M. Elliott, Travis G. Taylor &

Jacalyn J. Taylor

Director Lemon 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 Dover that the complaint be dismissed without prejudice. Motion carried with Ritter, Bourne, Dover, Gehrki, Starman, Titus and Evnen voting aye.

**Item F** Complaint 2020-017 - Tracy N. Earnest vs. Stephen Matthew Ward

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

**Item G** Complaint 2020-018

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

Commission Ritter suggested that Director Lemon add this issue to his list of Commission Minute Videos since this is a very important topic.

**Presentation of Stipulation and Consent Orders**

**Complaint 2019-039,  
Commission vs. Michael Joseph Conley**

Director Lemon presented a Stipulation and Consent Order in the matter of Complaint 2019-039, Michael Joseph Conley. A copy of said Order is attached to and made a part of these minutes.

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

After discussion, a motion was made by Titus and seconded by Dover to enter into the Order as presented. Motion carried with Ritter, Bourne, Dover, Starman, Titus and Evnen voting aye, and with Gehrki not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

**Disciplinary Hearings**

### **Complaint 2020-001 – Commission vs. Cassandra Lynn-Frances Kellar**

The Hearing regarding Complaint 2020-001, Commission vs. Cassandra Lynn-Frances Kellar was continued.

### **Complaint 2019-039 – Commission vs. Michael Joseph Conley**

The Hearing regarding Complaint 2019-039, Commission vs. Michael Joseph Conley was continued.

### **Informal Special Appearances**

#### **Justin Thomas Griffith, Salesperson Applicant**

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

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Griffith explained the situations regarding his criminal history.

After discussion, a motion was made by Titus and seconded by Starman to allow Mr. Griffith to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Griffith 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. Motion carried with Ritter, Bourne, Dover, Starman, Titus and Evnen voting aye, and with Gehrki not participating or voting, having recused himself, thereby nullifying any potential conflict of interest.

#### **Dylan M Dubas, Salesperson Applicant**

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Dubas explained the situations regarding his criminal history.

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

An amendment was offered by Commissioner Gehrki that due to the circumstances, Mr. Dubas does not need to notify any anticipated employing broker of the criminal convictions and the circumstances of the convictions. The amendment was accepted by the mover and the second.

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

### **Maile Claire Williams, Preliminary Informal Special Appearance**

Director Lemon presented exhibits which included: correspondence regarding Ms. Williams preliminary informal special appearance; a letter of explanation from Ms. Williams; character reference letters for Ms. Williams; Ms. Williams preliminary application for individuals with criminal convictions form; and trial court cases from the State of Nebraska on Ms. Williams cases. A copy of said exhibit is attached to and made a part of these minutes. Ms. Williams was present.

Chairperson Evnen reviewed the procedure for preliminary informal special appearances.

Ms. Williams explained the situations regarding her criminal history.

A motion was made by Gehrki and seconded by Ritter that the Director prepare an order outlining findings of fact and conclusions of law that criminal history information presented does not disqualify the preliminary applicant from being approved for licensure under the Nebraska Real Estate License Act. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Aaron Sheldon Hensley, Salesperson Applicant**

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Hensley explained the situations regarding his criminal history.

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

### **Consider Renewal of Errors and Omissions Insurance Contract with Williams Underwriting Group (WUG) for 2021**

Director Lemon presented an exhibit regarding the 2021 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 Gehrki and seconded by Dover to approve the renewal of contract with WUG for 2021 as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Commission Objectives 2019-2020 Fourth Quarter (Final Report)**

Director Lemon presented an exhibit regarding the final report of the 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 outcomes of the 2019-2020 objectives.

No action was necessary on this report.

### **Approve Commission Objectives 2020-2021**

Director Lemon presented an exhibit regarding the proposed 2020-2021 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 objectives that he and Commission Staff had developed and compiled for the objectives exhibit. He welcomed any suggestions or additions from the Commissioners.

There was discussion regarding the use of hearing officers to hear the Complaints and provide a recommendation to the Commission. The use of a hearing officer would require changes in the rules and regulations but could be used to significantly reduce the backlog of hearings the Commission is currently facing. Many of the Commissioners felt that it was their duty to hear these Complaints which in their opinion provides due process to the public and licensees. The scheduling of the backlog of Complaints would be discussed and determined by Chairperson Evnen and Director Lemon.

A motion was made by Titus and seconded by Ritter to adopt the Commission Objectives as presented. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Review Draft of Consumer Guide to Buying or Selling a Home**

Director Lemon presented a memorandum of explanation regarding the changes to the Consumer Guide to Buying or Selling a Home. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon briefly explained the changes as detailed in the exhibit and indicated that since these were written by a regulator, he would welcome input from the industry either formally or



informally.

There was discussion regarding the home inspectors section on page ten of the exhibit and whether home inspectors should be licensed or registered to protect the public.

A motion was made by Gehrki and seconded by Starman to provide comments to Director Lemon on or before July 10, 2020, so the suggested comments can be incorporated into a draft to be circulated to members of the industry for review and comment. The updated draft should be presented at the August meeting for the Commission's review with the changes being tracked from this draft forward. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Home Inspector Discussion**

After discussion, a motion was made by Bourne and seconded by Ritter that Director Lemon review other states laws regarding home inspectors requirements such as errors and omissions insurance and testing to hold them to a higher standard.

Chairperson Evnen suggested an amendment that the Agenda be amended to add home inspector discussion as 17a, and that Director Lemon first contact NAR regarding prior reporting and laws in other states and provide a report to the Commission regarding registering or licensing in other states. The amendment was accepted by the mover and the second.

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

### **Personnel Matter – Closed Session**

At 12:23 p.m., a motion was made by Titus and seconded by Gehrki to go into closed session for discussion of personnel matters. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

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

At 1:04 p.m., a motion was made by Starman and seconded by Gehrki to reconvene in open session. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

After reconvening in open, public session, a motion was made by Ritter and seconded by Gehrki to increase Director Lemon's annual salary by 2.3% beginning July 1, 2020. Motion carried with Bourne, Dover, Gehrki, Ritter, Starman, Titus and Evnen voting aye.

### **Legislative Matters**

Director Lemon reported that the Legislative session was suspended due to the pandemic, but will reconvene on July 20, 2020.

No action was necessary with regard to these matters.

### **Information Matters**

## **Adoption of Amendments to N.A.C. Title 299, Chapters 3 & 7**

Director Lemon reported that the amendments to N.A.C. Title 299, Chapters 3 & 7 were approved and adopted. They were effective June 10, 2020.

No action was necessary on this report.

### **Future Meeting Dates**

August 20-21, 2020 - Staybridge Suites, Lincoln  
September 17-18, 2020 - Staybridge Suites, Lincoln  
October 15, 2020 - Staybridge Suites, Lincoln  
November 19-20, 2020 - Staybridge Suites, Lincoln

### **Recesses and Adjournment**

At 10:05 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 10:12a.m.

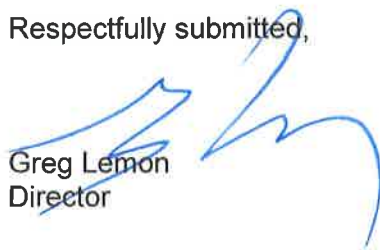
At 12:11 p.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 12:22 p.m.

At 1:07 p.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 June 25, 2020, meeting of the Nebraska Real Estate Commission were available for inspection on **July 10**, 2020, 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  
Leighun Brabec, Larabee School of Real Estate, Lincoln  
Charles Chadwick, CNC Realty, Omaha