

NEBRASKA REAL ESTATE COMMISSION

January 20, 2022

Hampton Inn & Suites

Board Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:00 a.m. on January 20, 2022, in the Board Room of the Hampton Inn & Suites, located at 7343 Husker Circle 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 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 northwest corner of the meeting room by the southeast 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 item 19h had been added since the tentative agenda was mailed to the Commissioners.

After review of the final agenda, a motion was made by Gehrki and seconded by Dohse to adopt the final agenda as presented. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Minutes of November 18, 2021

The minutes of the Commission meeting held on November 18, 2021, were considered.

After review, a motion was made by Bourne and seconded by Gehrki to approve the minutes as presented. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman 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.

Financial Matters

Receipts and Expenditures Report 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. (Note: It was discovered after the meeting that the Exhibit for this Agenda Item was incorrect. The November 30, 2020 cash fund balance used for comparison was incorrect. The November 30, 2020 cash fund balance inadvertently reflected \$1,739,809.96, when in fact, it should have reflected the cash fund balance as \$1,609,545.38. The Exhibit was corrected for attachment to these minutes.)

The cash fund balance as of November 30, 2021, was \$1,462,910.23, which compared to a cash fund balance of \$1,609,545.38 on November 30, 2020.

The cash fund balance as of December 31, 2021, was \$1,690,489.71, which compared to a cash fund balance of \$1,739,809.96 on December 31, 2020.

After discussion, a motion was made by Starman and seconded by Bourne to file the November and December Receipts and Expenditures Reports for audit. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman 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.

Specialized Registrations

Time-Share Registration - Amendment for Clubwyndham Access Vacation Ownership Plan (Non-Specific Site)

Director Lemon presented a specialized registrations report which included the registration of amendment to the 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.

Subdivided Land Registrations – Amendment for Reynolds Lake Oconee

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

After discussion, a motion was made by Dohse and seconded by Starman to approve the report as presented. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman 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 Gehrki and seconded by Ritter to ratify issuance of the licenses as set forth in the report. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman 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 Gehrki and seconded by Dohse to ratify the November and December Examination Reports for the purpose of issuing licenses. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Examination Passing Rosters for November and December

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

No action was necessary on this report.

PSI Fourth Quarter School Reports

Deputy Director Roubal presented the PSI Review of Examination Performance Reports for comparison for the period of October 1, 2021 through December 31, 2021, copies of which are attached to and made a part of these minutes.

Deputy Director Roubal explained 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.

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. (Note: It was discovered at the meeting that the Exhibit for this Agenda Item was incorrect. The names of two providers listed on the report, Omaha Area Board of Realtors and Reesults Coaching, were inadvertently reversed. The Exhibit was corrected for attachment to these minutes.)

After review, a motion was made by Starman and seconded by Bourne to ratify the six reports. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman, and Evnen voting aye.

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.

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

Patrick McCarney - Salesperson Applicant - Reappearance

Director Lemon presented exhibits which included: correspondence regarding Mr. McCarney's special appearance; trial court cases from the State of Nebraska on Mr. McCarney's cases; information regarding Mr. McCarney's previous special appearance in November 2021. A copy of said exhibit is attached to and made a part of these minutes. Mr. McCarney was present.

Chairperson Evnen reviewed the procedure for informal special appearances.

After discussion, the tabled motion was made by Gehrki and seconded by Starman to allow Mr. McCarney to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. McCarney 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. McCarney 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 four years. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Hosie Hudson, III, Salesperson Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Hudson distributed an additional letter of reference. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13b1.

Mr. Hudson explained the situations regarding his criminal history.

After discussion, a motion was made by Ritter and seconded by Bourne to allow Mr. Hudson to sit for the salesperson examination after making proper application and to have a license issued upon passing. Mr. Hudson 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. Hudson 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 four years. Motion carried with Bell, Bourne, Dohse, Gehrki, Ritter, Starman and Evnen voting aye.

Broker Qualification Review

Clayton Paul Vanderheiden

Director Lemon presented exhibits which included: correspondence regarding Mr. Vanderheiden's Broker Hardship Hearing; a letter of explanation from Mr. Vanderheiden, character reference letters for Mr. Vanderheiden, Mr. Vanderheiden's Broker Applicant Hardship application form, and Mr. Vanderheiden's resume. A copy of said exhibit is attached to and made a part of these minutes. Mr. Simpson was present.

Chairperson Evnen reviewed the procedure for Broker Hardship Hearings.

Mr. Vanderheiden explained the situation regarding the request for the hardship.

After discussion, a motion was made by Starman and seconded by Gehrki that the Director prepare an order of the Commission that the applicant has supplied sufficient relevant

experience to qualify under the Hardship provision. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Review and Approval of Travel to 2022 Regularly Attended Meetings

Deputy Director Rut presented an exhibit regarding the estimated costs of Commissioners and staff participating in regularly-attended meetings in 2022. 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 Ritter to approve the reimbursement of expenditures for Commissioners and staff who attend the meetings set forth in the exhibit. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman 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. (Note: It was discovered before the meeting that the Exhibit for this Agenda Item was incorrect. The version provided reflected a last update of January 25, 2007 when, in fact, the updated version was dated June 17, 2021. The Exhibit was corrected for attachment to these minutes.)

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

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

Consider Approval of Special Assistant Attorneys General Appointment

Director Lemon presented a letter of appointment for Special Assistant Attorneys General Adam Prochaska. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon requested authority to enter into memorandums of understanding with the appointed Special Assistant Attorneys Generals, Adam Prochaska and Chris Heinrich.

A motion was made by Starman and seconded by Bourne to authorize Director Lemon to enter into a memorandum of understanding with the appointed Special Assistant Attorneys General. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

Consider Alternate Approval Process for Mandatory Continuing Legal Education Offerings

Director Lemon presented a letter of explanation regarding mandatory continuing legal education offerings. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that they have received requests for additional education offerings outside of residential sales such as property management and farm management. Some of the courses which are approved by the Nebraska Bar Association would offer those additional offerings. He indicated that instead of sending in courses thirty days in advance and going

through the typical approval process in our office, it would be more efficient to provide an expedited process since these offerings are approved by the courts. Any amendment to the process would be require a regulatory change.

It was the consensus of the Commission to pursue the expedited process and bring the proposed changes back for review.

Legislative Matters

LB 112 - Director Lemon reported that this is a carryover bill to require members of the public to be allowed to speak at each meeting subject to the Open Meetings Act.

LB 196 - Director Lemon reported that this is a carryover bill to Prohibit discrimination based on lawful source of income under the Nebraska Fair Housing Act

LB 263 – Director Lemon reported that this is a carryover bill to Require occupational boards to issue certain credentials based on credentials or work experience in another jurisdiction

LB 709 – Director Lemon reported that this bill would change requirements relating to preliminary applications under the Occupational Board Reform Act. A copy of said exhibit is attached to and made a part of these minutes.

There was discussion regarding the limitations this bill places on real estate applicants and that this bill conflicts with the current process the Commission is utilizing to vent applicants with criminal histories.

After discussion, a motion was made by Ritter and seconded by Gehrki that the Commission oppose this bill. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

LB 811 – Director Lemon reported that this bill would change provisions relating to auctioneers of real estate. A copy of said exhibit is attached to and made a part of these minutes.

LB 892 – Director Lemon reported that this bill would change provisions of the Nebraska Real Estate License Act. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon noted that this bill was introduced to change the Nebraska Real Estate License Act as it relates to wholesaling and broker qualification by experience reviews. He indicated that the Commission previously approved these changes, and no further action is necessary at this time.

LB 975 – Director Lemon reported that this bill would provide a requirement for state officials and state employees testifying before the Legislature. A copy of said exhibit is attached to and made a part of these minutes.

After discussion, a motion was made by Starman and seconded by Dohse that the Commission oppose this bill. Motion carried with Bourne, Dohse, Gehrki, Post, Ritter, Starman and Evnen voting aye.

LB 1174 – Director Lemon reported that this bill would require every state agency to go before legislature every 5 years to review whether there is a need for the agency to continue to remain in operation. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to these matters.

Information Matters

2021-2022 Objectives – Second Quarter 2021

Director Lemon presented an exhibit regarding the second quarter 2021-2022 objectives of the Commission. A copy of said exhibit is attached to and made a part of these minutes.

Director Lemon explained the progress of each of the objectives.

No action was necessary with regard to this matter.

Errors and Omissions Loss Report – Fourth Quarter 2021

Director Lemon presented the Errors and Omissions Loss Report – Fourth Quarter 2021. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

ARELLO 2022 Leadership Conference – January 10-12, 2022 – Phoenix, AZ – Report of Attendee

Director Lemon noted that Deputy Director Rut attended the ARELLO 2022 Leadership Conference.

The Attendee discussed their experience at the ARELLO Conference.

No action was necessary on this report.

Staffing Changes

Director Lemon reported that Antwan Montague left the Commission and a replacement has been hired and scheduled to start on January 24, 2022. The new Deputy Director for Enforcement is Samantha Lowery.

No action was necessary on this report.

Errors and Omissions Insurance RFP

Director Lemon noted that the errors and omissions insurance contract with Williams Underwriting Group ends on 12/31/2022. He plans on preparing an RFP for the Commission to review and send to the Commissioners. Bring in March

No action was necessary at this time.

Future Meeting Dates

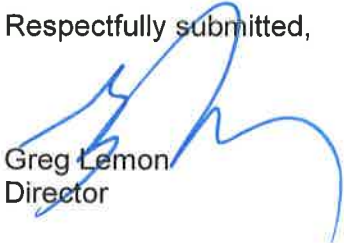
February 24-25, 2022 – Country Inn and Suites, Lincoln
March 17-18, 2022 - Country Inn and Suites, Lincoln
April 21, 2022 - Country Inn and Suites, Lincoln
May 19-20, 2022 - Country Inn and Suites, Lincoln
June 16-17, 2022 - Country Inn and Suites, Lincoln

Recesses and Adjournment

At 10:18 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 January 19, 2022, meeting of the Nebraska Real Estate Commission were available for inspection on January 21, 2022, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,



Greg Lemon
Director

Guests Signing the Guest List

Ryan Swinney, Nebraska REALTORS® Association, Lincoln
Charles Chadwick, CNC Realty, Omaha
Leighun Brabec, Larabee School of Real Estate, Lincoln

