

NEBRASKA REAL ESTATE COMMISSION

October 17, 2024

Telegraph Lofts East Center

4th Floor Conference Room

Lincoln, NE

Opening

Chairperson Evnen convened a meeting of the Nebraska Real Estate Commission at 9:02 a.m. on October 17, 2024, in the 4th Floor Conference Room of the Telegraph Lofts East Center, located at 200 South 21st St in Lincoln, Nebraska. All of the members of the Real Estate Commission were present. Also present were Director Greg Lemon, Deputy Director for Education Melissa Belcastro, Deputy Director for Enforcement Samantha Lowery, and Deputy Director for Licensing Monica Rut. J.L. Spray, Special Assistant Attorney General and Counsel to the Commission, was present for the Personnel Matters-Director Search.

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 southeast corner of the meeting room by the south 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 Peter and seconded by Ritter to adopt the final agenda as presented. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Minutes of September 19, 2024

The minutes of the Commission meeting held on September 19, 2024, were considered.

After review, a motion was made by Peter and seconded by Dohse to approve the minutes as presented. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, 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.

Director Lemon Greg introduced Kodi Doane, a student at the University of Nebraska Law College, which is volunteering with the Commission office as a law clerk to assist with investigations and case processing.

Financial Matters

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, 2024, was \$1,265,517.29, which compared to a cash fund balance of \$1,425,882.23 on September 30, 2023.

After discussion, a motion was made by Dohse and seconded by Ritter to file the September Receipts and Expenditures Report for audit. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Specialized Registrations

Time-Share Registrations - Amendment for Orange Lake Land Trust Plan

Director Lemon presented a specialized registrations report which included the registration of amendment to the time-share registration for Orange Lake Land Trust Plan. A copy of said report is attached to and made a part of these minutes.

A motion was made by Burleigh and seconded by Dohse to approve the amendments to the three registrations as presented. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, 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 Ritter and seconded by Dohse to ratify issuance of the licenses as set forth in the report. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

License Statistic Report for September

Deputy Director Rut presented the License Statistic Report for the month of September, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Examination Report – September

Deputy Director Belcastro 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 Dohse and seconded by Ritter to ratify the September Examination Report for the purpose of issuing licenses. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Examination Passing Roster

Deputy Director Belcastro 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.

Pearson VUE Third Quarter School Reports

Deputy Director Belcastro presented the Pearson VUE Review of Examination Performance Reports for comparison for the period of July 1, 2024 through September 30, 2024, copies of which are attached to and made a part of these minutes.

No action was necessary on this report.

Real Estate Education Matters

Continuing Education Provider/Activity Approval

Deputy Director Belcastro 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 Instructor/Activity Approval

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

Commission-Approved Training Provider/Activity Recognition

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

After review, a motion was made by Ritter and seconded by Peter to ratify the three reports. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Continuing Education Provider/Activity Rejection

Deputy Director Belcastro presented a Continuing Education Provider/Activity Rejection Report, a copy of which is attached to and made a part of these minutes.

No action was necessary on this report.

Commission-Approved Training Provider/Activity Rejection

Deputy Director Belcastro presented a Commission-Approved Training Provider/Activity Rejection 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. On the last page of the exhibit, Commission-Approved Training Activity rejection, the activity name set forth as "Hearth" when, in fact, it should have said "Health". The Exhibit was corrected for attachment to these minutes.)

No action was necessary on this report.

Pending Sworn Complaints and Investigative Matters

Deputy Director Lowery 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 Investigative Matter

Deputy Director Lowery presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Dohse and seconded by Ritter that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Item B Investigative Matter

Deputy Director Lowery presented an investigative report to the Commission.

After being advised of the results of the investigation and discussion, a motion was made by Ritter and seconded by Burleigh that the Commission file a complaint on its own motion and set it for hearing on the violations alleged in the report. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Item C Complaint 2023-046 - Michael J. Harkins vs Keisha Chantel Davis

Deputy Director Lowery 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 Peter that the complaint be dismissed without prejudice. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Item D Complaint 2024-012

Deputy Director Lowery 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 Burleigh that to file an amended complaint in order to ensure the facts and issues involved as identified in the investigation are adequately set forth and set the matter for hearing. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Presentation of Stipulation and Consent Orders

**Complaint 2023-012,
Joseph A. Pensick v. Oscar Barrera, Shaw McGuire, Kurt Fredrick Pfeffer**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-012, Joseph A. Pensick v. Oscar Barrera, Shaw McGuire, Kurt Fredrick Pfeffer. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Ritter and seconded by Dohse to enter into the Order as presented. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

**Complaint 2023-036,
Commission v. Otoniel Ojeda-Alvarez**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-036, Otoniel Ojeda-Alvarez. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Dohse and seconded by Peter to enter into the Order as presented. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

**Complaint 2023-036,
Commission v. Teresa Loya**

Deputy Director Lowery presented a Stipulation and Consent Order in the matter of Complaint 2023-036, Teresa Loya. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Ritter and seconded by Dohse to enter into the Order as presented. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Disciplinary Hearings

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

Informal Special Appearances

Jeffrey Burt Thurston, Salesperson Applicant by License Recognition

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Thurston explained the situations regarding his criminal history.

After discussion, a motion was made by Ritter and seconded by Burleigh to allow Mr. Thurston to receive a real estate salesperson license after making proper application. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Jeremy Reay Muckey-Shirk, Broker Applicant

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Muckey-Shirk explained the situations regarding his criminal history.

After discussion, a motion was made by Burleigh and seconded by Ritter to allow Mr. Muckey-Shirk to sit for the broker examination after making proper application and to have a license issued upon passing. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Thomas Niewohner, Broker Applicant by License Recognition

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

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Niewohner distributed additional information regarding the filing with the Commission office and the Nebraska Secretary of State. A copy of said exhibit is attached to and made a part of these minutes, denoted as exhibit 13c1.

Mr. Niewohner explained the situations regarding his cease and desist order.

After discussion, a motion was made by Dohse and seconded by Peter to allow Mr. Niewohner to receive a real estate salesperson license after making proper application and to have a license issued upon passing. Motion carried with Burleigh, Dohse, Geiser, Peter, and Evnen voting aye and with Muraskin and Ritter voting nay.

Namon Cortez Jones, Broker Applicant by License Recognition

Director Lemon presented exhibits which included: correspondence regarding Mr. Jones' special appearance; a letter of explanation from Mr. Jones'; State of Illinois Clerk of the Circuit Court of Cook County Certified Statement of Conviction/Disposition for Mr. Jones; character reference letters for Mr. Jones'; Mr. Jones' broker application form; trial court cases from the State of Nebraska on Mr. Jones' cases; and Mr. Jones' criminal history report. A copy of said exhibit is attached to and made a part of these minutes. Mr. Jones' was present.

Chairperson Evnen reviewed the procedure for informal special appearances.

Mr. Jones' explained the situations regarding his criminal history.

After discussion, a motion was made by Dohse and seconded by Ritter to allow Mr. Jones to receive a real estate salesperson license after making proper application and to have a license issued upon passing. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Legislative Matters

2025 Commission Legislation

Director Lemon presented an exhibit of the proposed legislation to require written buyer agency agreements for residential sales representation prior to providing that representation and to amend the license act relating to education and unlicensed practice. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon explained that as previously discussed, this proposed legislative change shown in REQ00086 create a mandatory buyer agency agreement requirement for residential buyers to be consistent with the National Association REALTORS® class action lawsuit requirements. The drafted bill changes some wording but there are no substantive changes. Director Lemon suggested that an emergency clause be added to this bill.

There was discussion regarding the NAR class action lawsuit and that the proposed legislation would provide consumers transparency in the process and the ability to negotiate the commissions up front. There was also discussion explaining that while not all licensees are members of NAR, the proposed legislation would provide consistency for all licensees.

Director Lemon explained that proposed legislation REQ00085 would address issues relating to marketing of options on lots for developers and also add the requirement for another thirty-hour

prelicense education course for new applicants. Director Lemon suggested providing an operative date of January 1, 2026, on the new education requirements to provide for notifications to providers and applicants. He also explained that through the rule and regulation process, the Commission would be able to specify the course requirements, so the operative date would allow for this process to be completed as well.

Director Lemon also noted that he would suggest this be included as one legislative bill unless the Commission felt it should be split out.

A motion was made by Dohse and seconded by Burleigh to authorize the Director to proceed with the proposed legislation and find an introducer for the legislative bill. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Consider Deficit Request for Personal Services Limitation Increase

Director Lemon presented an exhibit of the proposed request for personal service limitation increase. A copy of said exhibit is attached to and made a part of these Minutes.

Director Lemon noted that the exhibit did not reflect that the sick leave is paid out at 25% rather than 100%. He indicated that the correction would be made to this exhibit and made a part of these minutes.

A motion was made by Dohse and seconded by Peter to authorize the submission of the deficit request.

After discussion, an amendment was offered that the exhibit was to reflect the 25% of sick leave. The amendment was accepted by the mover and the second. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

Personnel Matters – Director Search

J.L. Spray, Special Assistant Attorney General and Counsel to the Commission, was present for the Personnel Matters-Director Search.

At 10:43 a.m., a motion was made by Burleigh and seconded by Dohse to go into closed session for discussion of the Directors Search. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, 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 relating to the Director search.

At 11:14 a.m., a motion was made by Burleigh and seconded by Dohse to reconvene in open session. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

No motion necessary

Information Matters

ARELLO Annual Conference - September 23-26, 2024 - Chicago, IL – Report of Attendees

Director Lemon noted that Commissioner Burleigh, and Deputy Director Belcastro, Deputy Director Rut and he attended the ARELLO Annual Meeting.

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

No action was necessary on this report.

Errors and Omissions Loss Report – Third Quarter 2024

Director Lemon presented the Errors and Omissions Loss Report – Third Quarter 2024. A copy of said exhibit is attached to and made a part of these minutes.

No action was necessary with regard to this matter.

Commission Objectives 2024-2025 – First Quarter Update

Director Lemon presented an exhibit regarding the proposed 2024-2025 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 and the progress made on each.

No action was necessary on this report.

Future Meeting Dates

November 21, 2024, Telegraph Lofts East Center, Lincoln
January 16-17, 2025, Telegraph Lofts East Center, Lincoln
February 20-21, 2025, Telegraph Lofts East Center, Lincoln
March 20-21, 2025, Telegraph Lofts East Center, Lincoln
April 24-25, 2025, Telegraph Lofts East Center, Lincoln
May 15-16, 2025, Telegraph Lofts East Center, Lincoln
June 26-27, 2025, Telegraph Lofts East Center, Lincoln

Recesses and Adjournment

At 9:27 a.m., Chairperson Evnen declared a brief recess, and reconvened the meeting at 9:30 a.m.

At 11:33 a.m., there being no further business to come before the Commission, a motion was made by Dohse and seconded by Ritter that the meeting adjourn. Motion carried with Burleigh, Dohse, Geiser, Muraskin, Peter, Ritter, and Evnen voting aye.

I, Greg Lemon, Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the October 17, 2024, meeting of the Nebraska Real Estate Commission were available for inspection on October 22, 2024, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,

Greg Lemon
Director

Guests Signing the Guest List

Arla Meyer, Nebraska Realty, Lincoln
Ashley Hendrickson, Nebraska REALTORS® Association, Lincoln
Kim Braaton, Nebraska REALTORS® Association, Lincoln
Deb Airola, REA, Omaha
Leighun Brabec, Home Real Estate, Lincoln