

NEBRASKA REAL ESTATE COMMISSION

April 17, 2009

Atrium Building

Second Floor Conference Room

Lincoln, NE

Opening

Chairperson Gale convened a meeting of the Nebraska Real Estate Commission at 9:03 a.m. on April 17, 2009, in the Second Floor Conference Room of the Atrium Building, located at 1200 N Street in Lincoln, Nebraska. All of the members of the Real Estate Commission were present, with the exception of Dover, who was absent and excused. Also present were Deputy Director for Education and Licensing Teresa Hoffman, Deputy Director for Enforcement Terry Mayrose, and Administrative Assistant Monica Rut. Jerry Pigsley, Special Assistant Attorney General and Counsel to the Commission, was present for the Interviews of Director Finalists.

Notice of Meeting (Adopt Agenda)

Deputy Director Hoffman 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, in writing, 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 were available to the public on a table in the meeting room; that a copy of the Open Meetings Act was posted on an easel located prominently in the room; and that the procedures followed were in accordance with the Open Meetings Act. Chairperson Gale asked that guests sign the guest list.

Deputy Director Hoffman noted that agenda items 3 and 14b had been added since the tentative agenda was mailed to the Commissioners. She also explained that the agenda had been rearranged to reflect a more accurate order in which items would be taken and to give more detail to the interviewing process. She also noted that since the agenda had been rearranged the corresponding exhibit number had been noted next to each agenda item.

After review of the final agenda, a motion was made by Grady and seconded by Leisey to adopt the final agenda as presented. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Approve Contract with Jerry L. Pigsley as a Special Assistant Attorney General

Deputy Director Hoffman presented an exhibit proposing to contract with a newly appointed Special Assistant Attorney General. A copy of said exhibit is attached to and made a part of these minutes.

Deputy Director Hoffman requested authority to enter into a "Memorandum of Understanding" with the proposed new appointee, Jerry L. Pigsley of Harding and Schultz PC, LLO. Deputy Director Hoffman indicated that Mr. Pigsley would be assisting Counsel Heinrich with the search for the Director position and interview process as well as other duties for the Commission as may be assigned from time to time.

A motion was made by Grady and seconded by Griess to authorize Deputy Director Hoffman to enter into a "Memorandum of Understanding" with the proposed new appointee, Jerry L. Pigsley. Motion carried with Bohrer, Grady, Griess, Leisey, Rouch and Gale voting aye, with Dover not participating or voting, being absent and excused.

Interviews of Director Finalists

Chairperson Gale presented an exhibit of the seven finalists for the Director position and the scheduled time for the interviews. A copy of said exhibit is attached to and made a part of these minutes denoted as exhibit 4-1.

Chairperson Gale indicated that the Commission would be conducting interviews for the Director position with seven finalists in open session. He noted that three interviews would be conducted by telephone and four interviews would be conducted in person. He asked that applicants be excused from the meeting during the interviews with the other candidates. He also indicated that the Commission would be using a uniform set of questions for each applicant to be fair and consistent.

The interviews were conducted of the various candidates in the order they were scheduled.

No action was necessary on this report.

Deliberations on Director Finalists - Closed Session

At 4:57 p.m., a motion was made by Grady and seconded by Griess to go into closed session for discussion of the Director finalists and to receive legal advice regarding personnel matters. Motion carried with Dover, Grady, Griess, Leisey, Rouch and Gale voting aye, with Bohrer not participating or voting, being absent and excused.

Chairperson Gale again indicated, prior to the closed session beginning, that the reason for the closed session was to discuss personnel matters and to protect the reputations of the individuals being discussed. Jerry L. Pigsley, Special Assistant Attorney General and Counsel to the Commission, was present to discuss personnel matters and offer legal advice in this matter.

At 6:45 p.m., a motion was made by Leisey and seconded by Griess to reconvene in open session. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Follow-up on Director Search

After discussion, a motion was made by Leisey and seconded by Dover that the Commission schedule a special meeting to conduct a second in-person interview with applicant Greg Lemon for the Director position; to authorize Jerry L. Pigsley, Special Assistant Attorney General and Counsel to the Commission, to contract with HirEase, Inc to conduct a social security number trace, county criminal records, akas, adverse action compliance, and credit history; and to note that the other six finalists were still under consideration by the Commission.

Commissioner Leisey indicated that both Deputy Director Hoffman and Deputy Director Mayrose had done a great job and were a great asset to the Commission. Chairperson Gale indicated that he planned on and looked forward to working with both Deputy Director Hoffman and Deputy Director Mayrose and staff. He indicated that the staff was a great team with special talents and abilities. He indicated that he appreciated having both Deputy Director Hoffman and Deputy Director Mayrose as candidates for the Director position. He also noted that the other fifteen

applicants would receive a notice from Jerry L. Pigsley, Special Assistant Attorney General and Counsel to the Commission, that they would not be considered for the position. The other six applicants were still under consideration by the Commission and would be notified of the situation after a second interview with Greg Lemon.

Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Minutes of March 19, 2009

The minutes of the Commission meeting held on March 19, 2009, were considered.

After review, a motion was made by Grady and seconded by Leisey to approve the minutes as presented. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Receipts and Expenditures Report for March

Deputy Director Hoffman presented the Receipts and Expenditures Report for March. A copy of said report is attached to and made a part of these minutes. Deputy Director Hoffman noted that an explanation page was included on the report.

The cash fund balance as of March 31, 2009, was \$726,970.65, which compared to a cash fund balance of \$684,823.34 on March 31, 2008.

After discussion, a motion was made by Leisey and seconded by Bohrer to file the March Receipts and Expenditures Report for audit. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Specialized Registrations

Time-Share Registrations – The Villas at Disney’s Animal Kingdom, The Villas at Disney’s Grand Californian Hotel and Bay Lake Tower at Disney’s Contemporary Resort

Deputy Director Hoffman presented a specialized registrations report which included the registration of amendments to time-share registrations for The Villas at Disney’s Animal Kingdom; The Villas at Disney’s Grand Californian Hotel; and Bay Lake Tower at Disney’s Contemporary Resort. A copy of said report is attached to and made a part of these minutes.

A motion was made by Leisey and seconded by Bohrer to approve the three registrations as presented. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

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

Deputy Director Hoffman 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 Bohrer and seconded by Grady to ratify issuance of the licenses as set forth in the report. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Examination Report - March

Deputy Director Hoffman presented for ratification the March Examination Report, a copy of which is attached to and made a part of these minutes.

After review, a motion was made by Griess and seconded by Bohrer to ratify the March Examination Report for the purpose of issuing licenses. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Real Estate Education Matters

Pre-License Education Instructor Approval

Deputy Director Hoffman 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 Activity Approval

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

After review, a motion was made by Bohrer and seconded by Leisey to ratify the three reports. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Continuing Education Activity Rejection

Deputy Director Hoffman 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.

Pending Sworn Complaints and Investigative Matters

Deputy Director Mayrose presented a summary report of 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 2009-005

Deputy Director Mayrose 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 Leisey and seconded by Bohrer that the complaint be set it for hearing on the violations alleged in the report. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye

Item B Complaint 2009-018-Joseph Applegarth vs. Michael Crawford

Deputy Director Mayrose 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 Bohrer and seconded by Leisey that the complaint be dismissed without prejudice. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Item C Investigative Matter

Deputy Director Mayrose presented the 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 Grady and seconded by Dover that the Commission file a complaint on its own motion and set it for hearing per Staff recommendation. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Item D Complaint 2009-013 – Julie Lynn Carper vs. Matthew William Meister

Deputy Director Mayrose presented a verbal report to the Commission and, when necessary, answered questions on this matter.

After discussion, a motion was made by Dover and seconded by Leisey that the complaint be dismissed without prejudice. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

Presentation of Stipulation and Consent Orders

**Complaint 2008-018,
Scott Annon Boyer vs. David Joseph Paladino**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2008-018, Scott Annon Boyer vs. David Joseph Paladino. A copy of said Order is attached to and made a part of these minutes.

After discussion, a motion was made by Dover and seconded by Leisey to enter into the Order as presented. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

**Complaint 2008-004,
Commission vs. Gary Thomas Thompson and Michael Dean Slatten**

Deputy Director Mayrose presented a Stipulation and Consent Order in the matter of Complaint 2008-004, Commission vs. Gary Thomas Thompson and Michael Dean Slatten. A copy of said Order is attached to and made a part of these minutes.

A motion was made by Dover and seconded by Leisey to decline the proposed Stipulation and Consent Order and authorize Chairperson Gale to work with Deputy Director Mayrose in negotiations. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

There was discussion regarding the Stipulation and Consent Order process. It was the consensus of the Commission to investigate the reason why a stipulation and consent order could not be negotiated separately when there are two or more respondents involved in the same complaint.

Hearings

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

Informal Special Appearances

There were no informal special appearances scheduled to be held at the meeting.

Legislative Matters

LB 11 - No new information presented.

LB 29 - No new information presented.

LB 30 – No new information presented.

LB 226 – No new information presented.

LB 311 – No new information presented.

LB 315 – No new information presented.

LB 403 – Deputy Director Hoffman reported that this bill had been signed by the Governor and that she would have the bill reviewed to see what changes would need to be made in processing applications for license.

No action was necessary with regard to these matters.

Future Meeting Dates

May 21-22, 2009 - Staybridge Suites, Lincoln
July 9-10, 2009 – Hampton Inn-Airport, Lincoln
August 13-14, 2009 – Staybridge Suites, Lincoln
September 10-11, 2009 – Staybridge Suites, Lincoln
October 15-16, 2009 – Hampton Inn-Airport, Lincoln

Recesses and Adjournment

Commissioner Dover joined the meeting at 9:17 a.m.

Deputy Director Hoffman and Deputy Director Mayrose were excused from the meeting at 9:17 a.m., and rejoined the meeting at 12:09 p.m.

At 10:54 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 11:02 a.m.

At 11:48 a.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 12:09 p.m.

At 1:07p.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 1:14.m.

At 1:15 p.m., Deputy Director Hoffman and Deputy Director Mayrose were excused from the meeting, and rejoined the meeting at 6:45 p.m.


At 3:41 p.m., Chairperson Gale declared a brief recess, and reconvened the meeting at 3:54 p.m.

Commissioner Bohrer was excused from the meeting at 3:50 p.m., and rejoined the meeting at 5:40 p.m.

At 6:55 p.m., there being no further business to come before the Commission, a motion was made by Grady and seconded by Leisey that the meeting adjourn. Motion carried with Bohrer, Dover, Grady, Griess, Leisey, Rouch and Gale voting aye.

I, Teresa D. Hoffman, Deputy Director of the Nebraska Real Estate Commission, do hereby certify that the foregoing minutes of the April 17, 2009, meeting of the Nebraska Real Estate Commission were available for inspection on May 4, 2009, in compliance with Section 84-1413(5) R.R.S. 1943, of Nebraska.

Respectfully submitted,


Teresa D. Hoffman
Deputy Director

Guests Signing the Guest List

Kristen Anderson, Nebraska REALTORS® Association, Lincoln