

**REAL ESTATE COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 a.m.

May 20, 2015

**MINUTES**

**DIVISION STAFF PRESENT:**

Daniel O'Bannon, Interim Division Director  
Mark Fagergren, Education and Licensing Director  
Jeffery Nielsen, Chief Investigator  
Justin Barney, Hearing Officer  
Jennie Jonsson, Administrative Law Judge  
Judith Jensen, Assistant Attorney General  
Elizabeth Harris, Assistant Attorney General  
Renda Christensen, Board Secretary  
Amber Nielsen, Assistant Board Secretary  
Dr. David Parker, Labor Commission  
Mark Schaerrer, Investigator  
Kadee Wright, Investigator  
John Bickmore, Investigator  
Van Kagie, Investigator

**COMMISSION MEMBERS PRESENT:**

Russell K. Booth, Chair  
Lerron E. Little, Vice Chair  
Calvin R. Musselman, Commissioner  
Lori Chapman, Commissioner  
William O. Perry, IV, Commissioner

**GUESTS:**

|                   |                                    |
|-------------------|------------------------------------|
| Peter Christensen | Tammy Lund                         |
| Shane Norris      | Kevin Swenson                      |
| Robert Buttars    | Sara Wainslow                      |
| Paxton Guymon     | Mike Ostermiller                   |
| Brad Belke        | Kris Furrow                        |
| Chris Jensen      | Steve Roney                        |
| John Reese        | David Parker                       |
| Anthony Sands     | Mike Herbert                       |
| Ann Reynolds      | Seaton Prince                      |
| John Reese        | Brad Bjelke                        |
| Suzanne Sheridan  | Joseph Szurgyi                     |
| Jake Breen        | Kris Furrow                        |
| Dan Naylor        | Dr. David Parker, Labor Commission |

Director Stewart is absent from the meeting today. He is attending a meeting at the Legislature. Daniel O'Bannon will be the Interim Director for this meeting. Mr. O'Bannon is the Director of the Division of Consumer Protection.

The May 20, 2015 meeting of the Utah Real Estate Commission began at 8:30 a.m. with Chair Booth conducting.

### **PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes - A motion was made and seconded to approve the written minutes from the April 12 and April 20 meetings of the Commission. Vote: Chair Booth, yes; Vice Chair Little, yes; Commission Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes. Both sets of minutes were approved.

### **DIVISION REPORTS**

#### **DIRECTOR'S REPORT – Daniel O'Bannon**

Interim Director O'Bannon is conducting the meeting today and has no report to give from Director Stewart.

#### **ENFORCEMENT REPORT – Jeffery Nielsen**

Mr. Nielsen reported in April the Division received 27 complaints; opened 22 cases; referred no new cases to the Attorney General's office; has 51 cases with the Attorney General's office; closed 4 cases; leaving the total of 274 cases with the Division.

#### **Stipulation for Review**

Ashley C. Jensen

Ms. Jensen was given the opportunity to appear today but has chosen not to.

#### **EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren reported the statistics show a continuing increase in licensees. There are increases in sales agents, brokers, and new company applications.

The Division's Caravan has covered nine areas in the state this year. The Division has been doing this Caravan presentation to the state for 32 years, and in Mr. Fagergren's time here, has covered nine Directors.

Chair Booth asked if the Division would make a Caravan-type presentation to the commercial real estate industry. Mr. Fagergren said that if a group requested the Division to speak to them, they would be happy to comply.

### **COMMISSION AND INDUSTRY ISSUES**

#### **Discussion of Proposed Rules – Justin Barney**

Mr. Barney said currently there is a proposed rule amendment for R162-2f-401(a) regarding prohibiting the sale without written permission on the final sales price. Nine comments have been received from the public on this proposed rule. These public comments and more can be heard at 9:00 a.m. in this meeting.

Mr. Barney presented Stipulations to the Commission for review.

Stipulation for Review

Chris Hunlow

Mr. Hunlow was given the opportunity to appear today but has chosen not to.

**Discussion: S.B. 296 – Dr. David Parker, Labor Commission**

Dr. Parker does all the educational training for Fair Housing throughout the State of Utah. The Fair Housing Law is created to cut down on discrimination of all types. Dr. Parker went on to describe the types of protected classes that should not be discriminated against. Each State has a right to all on different classes, and Utah has chosen to add source of income and LBGT. Discrimination is when people are treated differently because they are members of a protected class.

Because of the full agenda for the meeting today, Dr. Parker has agreed to come back and speak to the public and Commission when there is a little more time that can be allotted. Dr. Parker suggested that we ask our colleagues about their take and impact on this bill regarding their business community, and living community. Ask them if they have and questions regarding this bill, and write them down and see how the law applies to their concerns.

Dr. Parker said that he will be please to return to ask any questions or concerns we might have at a future time.

**9:00 PUBLIC COMMENT PERIOD**

The Division has received nine written comments on the proposed rule R162-2f-401(a) subsection (1)(d) which warrants a public comment period session be held. Administrative Law Judge Jonsson conducted this portion of the meeting.

Those making comments today are:

|                    |                        |
|--------------------|------------------------|
| Mike Ostermiller   | Kris Furrow            |
| Chris Jensen       | Robert Buttars         |
| Paxton Guymon      | Steve Roney            |
| Michael Herbert    | Brad Belke             |
| Chair Booth        | Vice Chair Little      |
| Commissioner Perry | Commissioner Musselman |
| Shane Norris       | John Reese             |

**10:10 Discussion: Donate Portion of Commission to 501(c)(3) (Charitable Foundation) - Mike Ostermiller**

Mr. Ostermiller asked the Commission and Division to consider adding wording in a rule to allow an agent to promise part of their commission received to a charitable foundation. Currently the agent can't advertise that they will donate and they would donate any part of their commission. The Commission asked Ms. Christensen to add Mr. Ostermiller to the Agenda for next month for further discussion.

**INFORMAL HEARINGS:**

10:17 Shawn Koplín - Application for License

11:03 Kaliff Tito Hinton - Application for License

**CLOSED TO PUBLIC**

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Musselman, yes; Commissioner Chapman, yes; Commissioner Perry, yes. The motion carries. An Executive Session was held from 12:14 p.m. to 12:52 p.m.

**OPEN TO PUBLIC**

**Results of Executive Session**

Results of Stipulations:

Ashley C. Jensen – Approved with concurrence of the Interim Director  
Chris Hunlow – Approved with concurrence of the Interim Director

Shawn Koplín will be notified by mail as to the outcome of his hearing.

Kaliff Tito Hinton will be notified by mail as to the outcome of his hearing.

A motion was made and seconded to form a committee to discuss the comments and suggestions that were made today during the Public Comment Period. The committee should be formed within the next ten days, and shall report back to the Division with recommendations to either go forward or make the suggested changes. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes.

A motion was made and seconded to adjourn the meeting. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Perry, yes; Commissioner Musselman, yes. The motion passes. The meeting adjourned at 12:56 p.m.