

REAL ESTATE COMMISSION MEETING

Heber M. Wells Building
Room 210
9:00 a.m.
November 18, 2015
Telephonic Meeting

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Jeffery Nielsen, Chief Investigator
Justin Barney, Hearing Officer
Elizabeth Harris, Assistant Attorney General
Amber Nielsen, Acting Board Secretary
Jennica Gruver, Real Estate Education Coordinator
Mark Schaerrer, Investigator
Van Kagie, Investigator
Jill Kelsch, Division Staff
Sarah Nicholson, Division Staff

COMMISSION MEMBERS PRESENT:

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

GUESTS:

Susan Aguilar	Kreg Wagner
Trevor Everett	Shane Norris
Brian Swan	Mike Hebert
Kevin Swenson	Lance Miller
Blaine Walker	Matt Jacobs

The November 18, 2015 meeting of the Utah Real Estate Commission began at 9:03 a.m. with Chair Booth conducting. Commissioner Chapman had not yet called into the teleconference.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – The time stated on the executive session in the draft minutes of the October 21, 2015 meeting was noted as being incorrect. A motion was made and seconded to approve the minutes as corrected from the October 21, 2015

meeting of the Commission. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Musselman, yes; Commissioner William O. Perry, IV, yes. Motion was approved.

Commissioner Chapman called into the teleconference.

There is no public comment.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart presented the proposed legislative bill for 2016. This is the first chance to look at the proposed language of the bill.

Director Stewart first went over the proposal for citation authority. There was a question as to the fine schedule for citations. Director Stewart stated the Division would be following precedent for fine amounts on citations.

Director Stewart went over the proposal to add the wording "or required to be licensed" to the definition of Principal Broker.

Director Stewart went over the proposal to change the power of attorney to be isolated and unsolicited.

Director Stewart went over the proposal to clarify false statements on applications

Director Stewart went over the proposal to clarify whether there has been a conviction or a plea in abeyance. The Commission discussed the purpose about this rule. Mr. Barney noted this proposal is not intended to alter the meaning of the statute as it is now, but to clarify the statute.

Director Stewart went over the proposal to grant authority to the Division to issue a subpoena and pursue that subpoena in district court.

Director Stewart went over the proposal which clarifies an individual who was once licensed is still responsible for acts committed while they were licensed.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen reported in the month of October the Division received 30 complaints; opened 17 cases; closed 7 cases; leaving 270 open cases. There are 66 cases assigned to the AG's office.

Stipulation for Review

David Essuman

Mr. Nielsen and Elizabeth Harris presented a Request for Concurrence for a trust account audit.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reviewed the rules regulating real estate schools. Mr. Fagergren opened the floor to Lance Miller from Praedo Institute. Mr. Miller opened discussion regarding a branch for real estate schools. Mr. Fagergren said if the Commission

thinks this is something the industry would like, then the Commission should add rules to allow this. Kevin Swenson spoke about how the school branches used to work when they were previously in operation. Chair Booth suggested the discussion be added to the agenda next month and considered then once there had been further time to gather information.

COMMISSION AND INDUSTRY ISSUES – Justin Barney

Mr. Barney presented proposed rule changes to R162-2f-102 which defines “closing gift” and “inducement gift;” changes to R162-2f-401a deleting the wording regarding gifts which are being added elsewhere; changes to R162-2f-401i regarding standards for real estate auctions; and adding R162-2f-401l regarding gifts and inducements, especially regarding a donation to a charitable organization. Chair Booth requested we add this to the agenda next month for further discussion.

Director Stewart presented proposed rule changes to R162-2f-307. Blaine Walker worked on this proposed rule change and appeared telephonically to speak on this today. This rule is dependent on a legislative bill passing in the upcoming legislative session. The Commission approves of this rule.

Mr. Barney reported on the approved rule filing regarding broker experience which is currently in the public comment period. There has been no public comment at this point in time. The public comment period runs through December 1, 2015. The earliest effective date for this rule would be December 12, 2015, if the Commission made a motion to approve the rule today. Chair Booth requested this effective date ruling be addressed at the next meeting.

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 Chapman, yes; Commissioner Musselman, yes; Commissioner William O. Perry, IV, yes. The motion carries.

CLOSED TO PUBLIC

An Executive Session was held from 10:33 a.m. to 10:41 a.m.

OPEN TO PUBLIC

Results of Executive Session

Results of Stipulation

David Essuman – Approved

The Request for Concurrence was approved. The Division will proceed.

A motion was made and seconded to adjourn the meeting. Vote: Chair Booth, yes; Vice Chair Little, yes; Commissioner Chapman, yes; Commissioner Musselman, yes; Commissioner William O. Perry, IV, yes. The motion carries. The meeting adjourned at 10:43 a.m.