

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

**REAL ESTATE COMMISSION
MEETING MINUTES**

March 9, 2016

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held March 9, 2016, at the State of Alaska Atwood Building Conference Room 1270, 550 W. 7th Avenue, Anchorage, Alaska.

Wednesday, March 9, 2016

Agenda Item 1 - Call to Order

Chairperson Nancy Davis called the meeting to order at 9:00 a.m. at which time a quorum was established.

Roll Call – 1(a)

Members present:

Peggy Ann McConnochie, Broker, Broker at Large
Nancy Davis, Broker, 1st Judicial District, Chair
Marianne Burke, Public Member
Eric Bushnell, Associate Broker at Large
Stacy Harvill, Associate Broker, 4th Judicial District
Cindy Cartledge, Public Member
Traci J. Barickman, Broker, 3rd Judicial District

Staff Present:

Sharon Walsh, Executive Administrator
Nancy Harris, Project Assistant
Jay Paff, Investigator II
Nina Ackers, Investigator II

Guests Present:

Shana Ackles, Broker, Keller Williams Realty, AK Group, Anchorage
Jerry Royse, Broker, Royse & Associates, Anchorage
Errol Champion, Representative for AK Association of Realtors and Broker of Coldwell Banker Race Realty, Juneau
Jennifer Stalcup, Salesperson, Keller Williams Realty of Eagle River
Todd Held, Associate Broker, Keller Williams Realty, AK Group, Anchorage
Joan McKinnon, Salesperson, Herrington & Company, LLC, Anchorage
Hennie Vincins, Salesperson, Herrington & Company, LLC, Anchorage

Guests Present via Telephone:

Janey Hovenden, Director, Operations Manager, Corporations, Business & Professional Licensing (CBPL)
Martha Hewlett, Administrative Officer II, CBPL
Harriett Milks, Assistant Attorney General, Department of Law,

Approval of Agenda- 1(b)

Commission members reviewed and discussed the meeting agenda and had a few additions.

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Mr. Bushnell asked that the issue regarding out of state brokers working within the State of Alaska, with or without a co-broker, be addressed with the Investigator, Jay Paff, present. The Chair added this discussion to the agenda under New Business, Tab 9(d).

Ms. McConnochie asked to discuss the change in reinstatement fees. The Chair added this discussion to the agenda under New Business, Tab 9(e).

Ms. Walsh and Mr. Paff asked that the Executive Administrator and Education Reports be switched with the Investigative Report so that the individuals attending the meeting would not have wait.

Ms. Davis asked to add to the agenda the consideration of adoption of regulation 12 AAC 64.420. She read it into the record.

12 AAC 64.420(c) is amended to read:

(c) A course certified by the commission may be offered for credit

(1) a course certified by the commission to satisfy the requirements under 12 AAC 64.500(b)(1) may be offered for credit from the date the commission certifies that course until January 31 of the next even-numbered year that completes two full licensing cycles;

(2) a course certified by the commission to satisfy the requirements under 12 AAC 64.500(b)(2) may be offered for credit from the date the commission certifies that course until January 31 of the next even-numbered year, except that a course that is certified by the commission from October 15 of an odd-numbered year through January 31 of an even-numbered year may be offered for credit from the date that the commission certifies the course until January 31 of the following even-numbered year. The commission will provide course sponsors with applications for course recertification by October 15 of odd-numbered years.

Ms Davis also asked to add to the agenda the consideration of hiring an E & O consultant for E & O insurance, both new items under New Business, Tab 9.

On a motion duly made by Mr. Bushnell, seconded by Ms. Burke, it was,

RESOLVED to approve the meeting agenda for March 9, 2016 as amended.

All in favor; Motion passed.

Ms. Burke asked that for future meetings she would like the Commission members to consider changing the order in which the Commission addresses the various items so that it is more accommodating for the public. She suggested changing the order to: Call for Order, approval of minutes, public comment, old business, new business, division update. That would move the executive sessions to the afternoon as well as the reports. These items do not have public comment and the information is available in the minutes so there is no loss for the public.

Commission members Bushnell and McConnochie had some concerns with moving the executive session to the afternoon because it may affect the Commission getting valuable information from the investigator that they may have requested. They want to give the

investigator as much time as possible to get the information they need so that they can make the correct decision.

Commission members discussed Ms. Burke's proposal and agreed to leave it up to the Executive Administrator, Investigator, and the Chair to organize the agenda. The agenda will be organized based on the concerns of the Commission discussed, what needs to be addressed at the meeting, as well as taking in consideration what will be easier for the Commission members and the public.

Agenda Item 2 - Approval of Meeting Minutes December 2, 2015

On a motion duly made by Mr. Bushnell, seconded by Ms. McConnochie, it was,

RESOLVED to approve the December 2, 2015 meeting minutes.

All in favor; Motion passed.

Agenda Item 3 – Consent Agreements-Education

Commission members discussed in Executive Session under Tab 5(b) with other Consent Agreements.

Agenda Item 4 - Public Comment

Shana Ackles, Broker for Keller Williams Realty, AK Group, presented a letter on the follow up of the Post Licensing Education that she and other brokers have worked on for the past few months. Their recommendations were:

12 AAC 64.064. EDUCATION REQUIREMENTS AFTER INITIAL LICENSE. (a) In addition to the education requirements of 12 AAC 64.063 for an initial license and the continuing education requirements under 12 AAC 64.500 for license renewal, within one year after the date that the commission issues an initial license to a real estate licensee under this chapter, the licensee shall complete 30 hours of education that meets the applicable requirements of (b) or (c) of this section. (b) After initial licensure as a salesperson, to meet the real estate education requirements of AS 08.88.095 and this section, the salesperson must complete the following course modules:

- (1) contracts and agreements: nine contact hours, **Increase to Ten Hours Total**
 - (A) purchase and sale agreements;
 - (B) addendum and amendments;
 - (C) counteroffers;
 - (D) contingencies; (E) multiple offers;
 - (F) back up offers;
 - (G) differences between residential, land, and commercial transactions; (H) personal service agreements; and
 - (I) negotiation and counseling;
 - (J) **Lease Purchase Options**
- (2) property management: three contact hours; **Increase to Four Hours Total**
 - (A) landlord tenant act;
 - (B) rental, lease, and occupancy of residential and commercial properties;
 - (C) associations;
 - (D) cooperatives;

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- (E) personal service agreements, management agreements, and lease listing agreements; and
- (F) security deposit statements;
- (G) Trust Accounting and Statute Requirements**
- (H) Notices and Evictions**
- 3) licensee law: three contact hours, **Increase to Six Hours Total**
 - (A) consumer pamphlet and waiver; (B) ethics;
 - (C) recovery fund;
 - (D) confidentiality; and
 - (E) conflict of interest;
 - (F) Statute and Regulations**
- (4) paperwork and risk management: six contact hours covering
 - (A) mandatory and area specific property disclosure; (B) environmental issues;
 - (C) zoning;
 - (D) covenants, conditions, and restrictions;
 - (E) title reports;
 - (F) resale certificates and public offering statements; (G) home inspections and repair negotiations;
 - (H) surveys and Easements
 - (I) record keeping and Documentation
 - (J) Client and Personal Safety**
- (5) evaluation and pricing: four contact hours, **Decrease to Two Hours Total**
 - (A) competitive market analysis and appraisals; (B) showing property; and
 - (C) marketing to buyers and sellers
 - (D) Property Research**
- (6) financing to closing: five contact hours, **Decrease to Two Hours Total**
 - (A) the importance and differences of pre-approval letters and pre-qualifications, good faith estimates, and loan types, including Internet lending programs;
 - (B) review of settlement statements, security deposit transfers, rent prorations, seller net proceeds, and variations in loan costs;
 - (C) the closing process;
 - (D) good funds law; and
 - (E) predatory lending practices

On a motion duly made by Ms. McConnochie, seconded by Ms. Barickman, it was,

RESOLVED that the Real Estate Commission reallocate the Post Licensing Education hours for new licensees based on the recommendations that were presented to the Commission by Ms. Ackles.

All in favor; Motion passed.

Erroll Champion, Chair of the Industry Issues Committee for Alaska Association of Realtors (AAR). Mr. Champion presented a quick review of the legislation that they are watching.

SB 158 (Senator Costello) – this bill will increase the required hours of education for a salesperson to upgrade to broker from 15 hours to 30 hours of education and increase the years of experience from 2 years out of 3 years to 4 years out of 5 years.

HB 281 (Representative Munoz)- this bill reads exactly the same as SB 158. If SB 158 is adopted and sent to the House for concurrence, the house will more than likely drop HB 281 and they will concur with SB158.

SB 76 – (Judiciary) this bill deals with activities of licensees prior to January 2005. The legal opinion was that the statute of limitations has run out so the bill will die at the end of this session.

SB 161- (Labor & Commerce) this bill is an act relating to the exemption from the regulation of construction contractors.- What this bill will require is that improvements by non-licensed contractors have to be disclosed, especially in remote areas. This will affect real estate licensees if they represent someone who has built one of these properties and did not disclosed that it was constructed by a non-licensed contractor. What the state is saying is, if you intend on building and selling a house within 2 years, you have to be a licensed contractor.

HB 307- (Representative LeDoux) would require all self-employed contractors and individuals to provide worker's compensation insurance. The real estate has been down this road several times. This exemption for real estate is in statute AS 23.30.230. This bill was intended for sheet rock installers not real estate.

HB 312-(Representative LeDoux) an act relating to common interest communities (condos).-this would eliminate the pre 1986 statute and let it roll into the post 1986 statute. What the post 1986 statute says: is in the case of a delinquent common interest property, the home owner's association could be entitled to 6 months of delinquent dues. AAR supported this but the way the bill was written the language was so strong that it will provide for super liens and it will take the first mortgage and any subsequent mortgage people out of the first position. This could have serious ramifications because going into a property sale and you have a first mortgage, they stand the risk of being displaced, increased liability of lenders, and lenders monies. Therefore, this bill is being opposed by the mortgage bankers, property managers, and others. This bill may not move forward.

The Commission, through the Chair, were in consensus to have Mr. Champion come back later to discuss E & O insurance when that agenda item is presented.

Jerry Royse, Broker of Royse & Associates and a real estate educator, did not come in with an agenda but did want to speak to the question that Mr. Bushnell raised regarding SB 161 with the exemption of construction contractors. Mr. Bushnell asked if it would be beneficial to change the property disclosure form to include the information on the construction contractor's license number, etc. Mr. Royse said make it a dual responsibility of disclosure for seller and licensee and that may get to the issue without putting licensees at risk for information they may not know. If a licensee is dealing with somebody that is building multiple homes using the exemption of their primary residence, it should be disclosed. Mr. Royse said he did believe that changing the disclosure 34.70 would be beneficial because anything the REC can do to help to enforce this helps the consumer.

Agenda Item 6 – Executive Administrator's Report

Recovery Fund Balance Report – 6(a)

Ms. Walsh presented the Recovery Fund financial reports to the Commission. She said that the header was incorrect but a corrected spreadsheet was provided; the header should read actuals for fiscal years ended June 30, 2012 through June 30, 2015 and the projections are shown for June 30, 2016 and June 30, 2017. On the balance sheet, it shows total revenue in fund balance as of the end of June 30, 2015 at \$454,216.

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On the Statement of Revenues, Expenditures and Changes in Fund Balance, with the quarter ending September 30, 2015 there were expenditures totaling \$23,260, revenues of \$7,450 with a total end in the Fund Balance of \$438,454. The other expenditure and revenue report is ending December 31, 2015, and it shows a total revenue coming in of \$21,290, and total expenditures of \$34,040 with a total end balance of \$425,704. The REC is in good standing with the Recovery Fund. This does not include any revenue that was received during the renewal but will be captured on the next report at the June meeting.

Schedule of Revenue and Expenditure – 6(b)

Ms. Walsh said that the Division's Revenue and Expenditure report for 1st and 2nd quarter report for the Real Estate Commission, will be covered by Martha Hewlett, the Administrative Officer for the Division at 2:00 pm today.

Licensing Statistics/Renewal Report– 6(c)

Ms. Harris presented the licensing statistics for the Real Estate Commission. There were 65 new licenses issued from October 1, 2015 through December 31, 2015, Licensees with an expiration date of 1/31/2018 was 2,479; total active (status of active) licensees during this time period: 2,457. There were 71 license transfers; 7 inactive licenses, 11 returned licenses, 4 licensees on probation, 61 licensees completed PLE, and 371 licenses have a lapsed with an expiration date of January 31, 2106. There were 9 new offices registered with the REC, 8 main offices and 1 branch office. Ms. Harris said the total FY16 Recovery Fund fees collected for licensing from October 2015 through December 2015 totaled \$6,000. She pointed out the renewal statistics for the Professional Licensing renewals as of 02/16/2016. The REC had 2559 possible renewals, and 2443 licenses renewed online and hardcopy combined.

Agenda Item 7 – Education Report

Education Statistics – 7(a)

Ms. Harris provided the Commission with the Education report. There are currently 7 pre-licensing courses, 7 broker upgrade courses, 151 elective courses, 15 designated courses and 13 post licensing courses approved with a total of 193 courses. There are 76 permanent instructors which includes 4 new instructors for this period. The Recovery Fund fees collected for education for FY2016 totaled \$22,240.

Regulation Tracker – 7(b)

Ms. Harris presented the Regulation Tracker for the Commission to review. There is only one outstanding regulation, 12 AAC 64.420 that was out for public comment that closed on March 4, 2016. This regulation is on the agenda for the Commission's review and adoption later on the agenda.

Agenda Item 5 – Investigator's Report/Probation

Statistical Report/Probation Report– 5(a)

Mr. Paff addressed the Commission and provided an investigative report for period of November 17, 2015 through February 24, 2016. Since the last meeting, 17 matters were opened and 14 were closed, 6 of which were intakes. A total of 23 matters remain on-going either in an active investigation or litigation. There is only 1 case that is older than a 2015 date and that is at litigation and hopefully will be closed at the next meeting and that will make all the cases current. This will allow Mr. Paff to move cases along as they come in. There were 8 actions that were closed since the last meeting.

Mr. Paff introduced the new investigator, Nina Akers, who is the new probation monitor for the REC. She will present the probation report in executive session.

Commission recessed for break at 10:00 a.m.
Commission reconvened from break at 10:22 a.m.

Disclosure Issues, Harriett Milks, Assistant Attorney General

Ms. Harriett Milks, Assistant Attorney General for Department of Law, was asked to speak to the Commission regarding the issue of disclosure for public officials and board members. Ms. Milks said the issue of disclosure is under the Executive Board Ethics Act, AS 39.52. She said this requires that public officials who sit on a commission or board to make disclosures of facts or matters that could potentially create a conflict of interest. Usually what this means with regard to title 39 is that there is a personal or financial interest. If there is any organization that you belong to that as an interest or a potential interest in what the Commission does it should be put on the record, which means orally. She said she has recommended to all the boards that she represents that they revisit the issue of disclosure on a regular basis. When to disclose is determined by the Commission, either at the beginning of every meeting, or once a year, etc.

Mr. Bushnell asked for clarification from Ms. Milks. He said if a Commission member feels that they may have a potential conflict of interest, they should disclose. However, it is for the Board or Commission to determine whether it is a conflict of interest and even if a Commission member thinks they have a potential conflict, if the Board/Commission decides it is not a conflict, they can vote.

Ms. Milks said that was correct.

Ms. Cartledge stated that she understood the disclosure at the beginnings of the meetings, but isn't it incumbent on the individual Commissioners that if something came to light during a discussion that they would benefit them financially on a personal level, isn't it incumbent upon that Commissioner to disclose? Then from that point, the Commission will determine whether or not there is a conflict.

Ms. Milks said that was correct.

Ms. Burke asked if a potential conflict or an appearance of conflict had been disclosed at a prior time, is there any responsibility on the Commission to go back and review minutes and documents that were filed to determine whether such a conflict had been disclosed?

Ms. Milks said no, it was not the Commission's responsibility/obligation to go back and look what those associations were. She said, at the basis of everything Board/Commission members do as public officers is transparency. They work for the people and their job is to bring the work to the people in a transparent, clear, and predictable manner. She said in order to do that it helps to have an unstated expectation, which would be to disclose on a regular basis.

Ms. Davis said that the Commission only meets four times a year so it would be at the Commission's best interest to have Ms. Walsh or herself ask at every meeting if anyone has any disclosures.

Ms. Walsh took a roll call of each Commission member and they made their disclosures.

On a motion duly made by Ms. McConnochie, seconded by Ms. Barickman, it was,

RESOLVED that they go into executive session. Ms. Barickman stated: In accordance with AS 44.62.310(c): I move we go into executive session for the purpose of discussing subjects that tend to prejudice the reputation and character of a person.

All in favor; Motion passed.

Into Executive session at 10:46 a.m.

Commission breaks for lunch at 12:15 p.m.
Commission reconvened at 12:45 p.m.

Out of Executive session at 2:06 p.m.

On a motion duly made by Ms. McConnochie, seconded by Ms. Harvill, it was,

RESOLVED that they come out of executive session.

All in favor; Motion passed.

Consent Agreement 2016-0000145

On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it was,

RESOLVED to reinstate case #2016-000145 effective immediately.

All in favor; Motion passed.

The REC approved the case #2016-000145 in the matter of Kevin Baker.

Consent Agreement 2016-000071

On a motion duly made by Ms. Cartledge, seconded by Ms. McConnochie, it was,

RESOLVED to accept the Consent of Agreement in case #2016-000071.

All in favor; Motion passed.

The REC approved the Consent of Agreement in the matter of Teresa Held.

Consent Agreement 2015-000333

On a motion duly made by Ms. Cartledge, seconded by Ms. McConnochie, it was,

RESOLVED to accept the Consent of Agreement in case #2015-000333.

All in favor; Motion passed.

The REC approved the Consent of Agreement in the matter of Elizabeth Steele.

Consent Agreement 2015-001013

On a motion duly made by Ms. Cartledge, seconded by Ms. McConnochie, it was,

RESOLVED to accept the consent agreement subject to the reduction in fine for case #2015-001013.

4 members in favor (McConnochie, Cartledge, Burke, Harvill). Bushnell and Barickman abstained. Motion passed.

The REC approved the consent agreement in the matter of Fred Braun.

Consent Agreement 2015-001324

On a motion duly made by Ms. Cartledge, seconded by Ms. McConnochie, it was,

RESOLVED to accept the voluntary license surrender in case #2015-001324.

All in favor; Motion passed.

The REC approved the voluntary license suspension in the matter of Phyllis Enoch

Consent Agreement 2016-000030

On a motion duly made by Ms. Cartledge, seconded by Mr. Bushnell, it was,

RESOLVED to accept the license surrender in case #2016-000030.

All in favor; Motion passed.

The REC approved the license surrender in the matter of Clifford Penn.

Agenda Item 8- Old Business

Broker Manual Update – 8(a)

This item (Broker Manual) was tabled to the June 2016 meeting.

On a motion duly made by Ms. McConnochie, seconded by Mr. Bushnell, it was,

RESOLVED to table the Broker Manual to provide for further review at the June 2016 meeting.

All in favor; Motion passed.

Letter AAR 1/15/16 from REC – 8(b)

Ms. Walsh provided the REC with a copy of the letter that was sent to the AK Association of Realtors in January regarding their assistance on legislation increasing Broker education from 15 hours to 30 and experience from 24 months to 48. Legislation was subsequently proposed as SB158 and HB281 to introduce this change in both the Senate and the House.

Review of RF fees hand – receipted vs. RF f/s – 8(c)

Ms. Harris was asked by Ms. Burke at the December meeting to inquire into whether or not her hand-tallied receipts coincide with the financial reports provided to us from the Division. In carrying out this review it appears that the hand tracking was different by \$230.00 for the last quarter.

Consumer Disclosure Use w/Teams – 8(c)

Ms. Barickman was asked by Ms. Davis if we could table this agenda item in the interest of time today.

It was decided to table this issue until the June 2016 meeting.

Agenda Item 9 – New Business

Recovery Fund-Consumer info on website – 9(b)

Ms. Walsh spoke to the issue of providing more information to the consumer on the Recovery Fund as requested by Ms. Burke at the December 2, 2015 meeting. Ms. Walsh provided a new information sheet that would be posted to the REC web site but didn't know what else Ms. Burke wanted as far as providing additional consumer information. Ms. Burke stated that this information sheet was a start however; she thought more consumer information should be provided through advertising in publications throughout the real estate industry. She stated that perhaps an informative insert could be included in newspapers or industry publications or as a public notice. Advertise to consumers on how to file a recovery fund claim if they suffered a financial loss in a real estate transaction. She wants the real estate industry to help out with this matter and provide for it when someone files a complaint or dispute with the Realtor boards. Mr. Bushnell had two points: 1) not a proponent of putting it in the newspaper-not money well spent. Second point he made is that Realtors are only about 50-percent of all licensees and that is a limitation. Ms. McConnochie asked Ms. Cartledge how does the AK Bar Association do outreach for their malpractice complaints? Ms. Cartledge stated that there are two types of complaints filed with the Bar Association: Fee disputes and ethics. Ms. Barickman stated she agreed that this is money not well spent and supports Mr. Bushnell's comments. She also indicated that she thought the information updated on the Recovery Fund provided in the meeting packet was good and should be on the REC web site. Ms. Burke stated that it is critical for consumers to know how to recover from a financial loss of a real estate transaction as a result of fraud, an intentional tort, deceit, or the conversion of

trust funds on the part of a licensee. She also stated that the REC hasn't spent a penny since she has been on the REC in educating the public and that we need to start thinking how we can get this information out to the general public. Ms. McConnochie asked Ms. Burke if her reason for doing this was that not enough claims have been filed? Ms. Burke stated she is using this as proof that very few people have used this and she doesn't believe that only 2 financial losses have occurred in the past few years. Ms. McConnochie stated that she believes people know where to call to complain about licensees and is satisfied with the ways to file a claim against licensees in this state.

Ms. Harvill stated she was in agreement with Ms. McConnochie. Ms. Burke stated she is asking for help and that it's improbable that only 2 claims have been filed. She expressed her concern that the REC is not fulfilling its mission to protect the public. Ms. Barickman stated that the Recovery Fund is not a problem and that consumers can find it. She indicated that the REC is wasting time to make something out of this and that we just tabled two critical items the Broker Manual and dealing with teams. Ms. Cartledge suggested that staff send the Recovery Fund changes to them and get comments back on this for the June meeting.

Legislation Review SB158 and HB 290/ and CBPL Legislative Guidance for Boards and Commissions – 9(c)

Commission members reviewed proposed legislation and were previously briefed on these bills by AAR Industry Chairman, Errol Champion during public comment.

Agenda Item 10 – Division Update

The Director of Corporations Business and Professional Licensing, Janey Hovenden and Martha Hewlett, Fiscal Officer, addressed the Commission via teleconference. Ms. Hewlett provided the Division Revenue & Expenditure report for the first and second quarters of FY16. The report shows an ending cumulative surplus of \$196,559 with an estimated Indirect Expenditure for the fiscal year of \$169,382 which will have a final number (actual) after the fiscal year closes. Ms. Hewlett indicated that there would be a change in revenue since the REC just went through license renewals. Director Hovenden asked about the issue of REC Errors & Omission insurance and if the Commission had made a decision. Chair Davis indicated that item was next on the agenda and they would let her know the status after the meeting.

E & O Insurance – 9(a)

Chair Davis asked that Mr. Champion return to the table to discuss E & O insurance and the current legislation tied to the sunset of the REC HB290. Mr. Champion stated that he and Chair Davis met with Representative Olsen's staff on February 23, 2016. They were told that the E & O issue needs to get fixed and to make it work. Ms. Walsh provided them with a timeline of events over the years. There was a meeting on March 4, 2016 with Rep Olsen's staff Laura Stidolph, Conrad Jackson, Directors of CBPL Hovenden and Insurance Wing-Heier, CBPL Operations Manager Chambers, Dept of Law Assistant AG Dinegar and AAR Lobbyist Denny DeWitt. Those in attendance via teleconference were REC Executive Administrator Walsh and Chair Davis. There was broad discussion about how to fix the issue of E & O. Some of the discussion centered on making a change to the existing statute requiring a master E & O policy. The other discussion was to hire a consultant that has knowledge of E & O that could work with the REC to assist in obtaining a master E & O policy. Ms. McConnochie asked Mr. Champion if AAR could help the REC out on this? Ms. Burke reminded the REC that the original legislation is very restrictive and so are the regulations that were implemented. She stated that there are additional options

that can be looked into-change the wording on the Invitation to Bid. There are pages of non-relevant information. She went on to list the problems with E & O: too narrow, too restrictive, no underwriting data on claims made, who has it, who doesn't, no historical information, very risky-that is why you ask for one year to accumulate data and then negotiate, premium is too low but can be changed and tying it to the Consumer Price-Index (CPI) is irrelevant because increases have to be based on experience. Ms. Burke stated that we can address the issues that were in the initial ITB. Chair Davis indicated that Representative Olsen's office wants this issue to get done fast.

On a motion duly made by Mr. Bushnell, seconded by Ms. Barickman, it was,

RESOLVED that REC staff to work with Marianne Burke and with the Department to hire a consultant to move this issue.

Ms. Cartledge offered an amendment seconded by Ms. McConnochie to the motion, there needs to be a dollar amount \$25-40,000. At a cost not to exceed \$50,000.

Ms. Burke stated that the only thing the consultant can give us is data and we don't have data and to obtain that data will cost a fortune. Chair Davis said the recommendation was to hire a consultant to get this done. Ms. Harvill asked what does this mean, it's too broad. Ms. Walsh stated that they would look at our existing statutes and regulations and find out what is out there in the market for us.

Ms. McConnochie asked if we could take a survey of the Brokers and find out who does not have E & O and get an idea of users out there. Ms. Burke stated a Master Policy is based on economies of scale; therefore, you would get a better rate in a pool. She recommended that the REC put out a properly worded RFP/ITB and no cost is involved. Mr. Bushnell stated that 12 AAC 64.600 insurance is required for Brokers, Associate Brokers and Salespersons must submit proof of E & O insurance. We need to figure out another way to make it happen. Chair Davis indicated that the problem is the language in the statute. Ms. McConnochie stated that she worked with Dave Feeken on getting this legislation passed. They spoke to states that had E & O requirements and a master policy. Ms. Cartledge asked if the REC can get a change to legislation and have all licensees get E & O and not have a master policy. Ms. Burke stated we need to change statute and require if you have a license you will be required to have E & O.

Mr. Bushnell removes his motion from the floor and makes a new motion:

On a motion duly made by Mr. Bushnell, seconded by Ms. Barickman, it was,

RESOLVED that a subcommittee be formed to find information, Marianne Burke and REC staff to work with Department to find a consultant to correct the problem with E & O with the maximum bid of \$50,000 within 30 days.

Discussion with members.

Ms. Burke stated that she would not do this unless she had the absolute assurance of transparency. She said she has been told that real estate commissioners do not do this sort of thing, getting this information and having input into a RFP.

Ms. Barickman calls for the question.

Majority in favor; Motion passed. Ms. Burke abstained and Ms. Barickman opposed.

Commission recessed for break at 3:45 p.m.
Commission reconvened from break at 3:49 p.m.

Regulation 12 AAC 64.420 – 8(e)

On a motion duly made by Mr. Bushnell, seconded by Ms. Harvill, it was,

RESOLVED to accept the proposed regulations 12 AAC 64.420.

All in favor; Motion passed.

Out of State Brokers – 8(e)

Mr. Bushnell asked for input from Investigator Paff regarding out-of-state brokers, specifically, how can the REC Investigator stop out of state Brokers? Mr. Paff said he would be meeting with the CCIM group on April 16. Ms. Walsh indicated that in the past the Investigators have used a Cease and Desist Order against licensees from the lower-48. Ms. McConnochie stated that the law allows for co-brokering a property with an Alaska licensee. Ms. McConnochie asked that Investigator Paff look into this further and report back.

Mr. Paff informed the Commission that his travel to ARELLO this year was not approved to attend the ARELLO Investigator Workshop.

Change in Reinstatement fee – 8(f)

Ms. McConnochie asked that this item be taken up at the June meeting.

On a motion duly made by Ms. McConnochie, seconded by Ms. Barickman, it was,

RESOLVED to adjourn the meeting.

All in favor; Motion passed.

Meeting adjourned at 4:11 p.m.

Prepared and submitted by:
Real Estate Commission Staff

Approved:



Nancy Davis, Chairperson
Alaska Real Estate Commission

Date: 6/6/16