

STATE OF ALASKA
DEPARTMENT OF COMMERCE COMMUNITY AND
ECONOMIC DEVELOPMENT
DIVISION OF CORPORATION BUSINESS AND
PROFESSIONAL LICENSING

**REAL ESTATE COMMISSION
MINUTES OF MEETING**

September 6, 2012

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 September 6, 2012, at the Atwood Building, Room 1270, Anchorage, Alaska.

Thursday, September 6, 2012

Call to Order, Tab 1

Chairperson Brad Cole called the meeting to order at 9:08 a.m.

Roll Call, Tab 1(a)

Members Present:

Anita Bates, Broker, Broker at Large
Marianne Burke, Public Member
Nancy Davis, Broker, 1st Judicial District
Chris Swires, Associate Broker, Broker At Large
Brad Cole, Associate Broker, 3rd Judicial District

Members Present via teleconference:

Stacy Risner, Associate Broker, 4th Judicial District

Members Absent:

Charlene Flyum, Public Member

Staff Present:

Sharon Walsh, Executive Administrator
Nancy Harris, Project Assistant
Jennifer Wirawan, Investigator

Guests Present (at various times):

Eric Hanssen, Engineer, Municipality of Anchorage
Brad Snowden, student/former licensee.

The meeting was scheduled for Wednesday, September 5, 2012, however, due to weather conditions State Offices were closed in Anchorage and the meeting was rescheduled for

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Thursday, September 6, 2012. Commission members Flyum and Risner did arrive for the meeting on September 5, 2012, however, could not stay due to scheduling issues. Ms. Risner was able to join the meeting by teleconference.

Approval of Agenda, Tab 1(b)

The Chair, Brad Cole, reviewed and discussed the revision of the agenda to address the most crucial issues for a half day meeting.

The agenda items that were covered at this meeting were:

- #3-Public Comment
- #7- Investigator's Report
- #8(a)-Penalty for Unapproved REC Instructor
- #9(a)-Schedule of meeting dates
- #9(d)-Election of Officers
- #2-Approval of Meeting Minutes; and
- #5-Executive Administrator's Report

On a motion by Ms. Bates, seconded by Ms. Davis, it was

RESOLVED to accept the agenda as revised.

All in favor; Motion passed.

Public Comment, Tab 3

Eric Hanssen, an engineer with the Municipality of Anchorage (MOA) who currently sits on the Onsite Wastewater Technical Review Board, presented a proposal to revise the State of Alaska Residential Real Property Transfer Disclosure Statement.

Mr. Hanssen said that currently the disclosure form allows the home owner to document if they have had any issues with their on-site water system and the type of system it is. However, homes within the MOA are required to have a COSA (Certificate of On-Site System Approval) completed. COSA is the inspection and documentation process that is required to ensure that the onsite septic system, as well as, the well water is operating properly. The purpose is public safety and the frequency is with every real estate transaction. The State of Alaska Residential Real Property Transfer Disclosure Statement currently does not list whether a COSA has been performed. Mr. Hanssen requested, through his proposal, a statement be added to the residential disclosure form that will allow the seller to indicate if the home is within the MOA and if a COSA has been completed.

The Commission let Mr. Hanssen know that this would need to go through the regulation change/process which could take up to a year.

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The Executive Administrator said that when she spoke to Mr. Hattenberg, also a member of the Onsite Wastewater System Technical Review Board, he said he could give a presentation/proposal regarding this issue at the December meeting.

Ms. Swires asked Mr. Hanssen what brought the issue to the table for the Onsite Wastewater System Technical Review Board? Mr. Hanssen said there have been several homes with onsite systems that have fallen through the cracks. It is a public health and safety issue and also a risk to the buyer that the system could fail having not gone through an inspection/process.

Ms. Swires said she believed that the COSA is not being missed with real estate licensees but with FSBO's.

Investigator's Report, Tab 7

Consent Agreements, Tab 7(b)

On a motion duly made by Ms. Swires, seconded by Ms. Davis, it was

RESOLVED to enter executive session in accordance with AS 44.62.310(c) (2) to discuss investigative matters.

All in favor; Motion passed.

Into Executive Session: 9:26 a.m.

On a motion duly made by Ms. Davis, seconded by Ms. Swires and passed unanimously, it was

RESOLVED to come out of executive session.

All in favor; Motion passed.

Out of Executive Session: 10:04 a.m.

On a motion duly made by Ms. Davis, seconded by Ms. Bates, it was

RESOLVED to accept the consent agreement for Samuel Han, Case #2012-000450.

All in favor; Motion passed.

On a motion duly made by Ms. Davis, seconded by Ms. Bates, it was

RESOLVED to accept the consent agreement for Glenda Feeken, Case #2010-001413.

All in favor; Motion passed.

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On a motion duly made by Ms. Davis, seconded by Ms. Bates, it was

**RESOLVED to accept the consent agreement for Nicolas Sanford,
Case #2010-001118.**

All in favor; Motion passed.

In Matter of: 2011-000361, 2011-001153, 2011-001154, 2012-000366 & 2012-000502, Tab 7(c)

On a motion duly made by Ms. Davis, seconded by Ms. Swires, it was

**RESOLVED to immediately revoke the teaching certificate for
Charles Sandberg, case #s 2011-000361, 2011-001153, 2011-001154,
2012-000366, and 2012-000502 based on 12 AAC 64.460.**

All in favor; Motion passed.

10:12 a.m. Ms. Risner joined the meeting via teleconference.

New Business, Tab 9

Schedule of Future Meeting Dates, Tab 9a

The Commission discussed and set the dates for 2013 meetings.

Ms. Burke suggested to the Commission to set the March meeting date for Juneau to allow the Commission to lobby the legislature as a regulatory body.

- March 6-7, 2013, discuss possibly having meeting in Juneau once the dates of the legislation session is determined.
- June 5-6, 2013
- September – determine date once the NAR convention dates and location are known.
- December 4-5, 2013

Public Comment, Tab 3, Continued

Don Habeger, Director of Corporations, Business and Professional Licensing, addressed the questions that the Commission members had asked him at their last meeting.

Mr. Habeger said that one of the questions to him was financial information and allowing Ms. Walsh read only access on the State system. Ms. Walsh will be allowed access; however, she will need to complete training and once training is complete she will have access. He said as always the Real Estate Commission will receive a report on a quarterly basis and the Division will make sure that the reports are vetted through the new checks and

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balances. However, if any of the Commission members want information before they receive the reports they can call Ms. Walsh for information.

Mr. Habeger said that the Commission's question regarding AS 08.88.037, Investigation and Injunction, has been forwarded to the Department of Law. It is now in the queue. He said that Mr. Branch has been assigned that question, however, the timeline is unknown but it is in the queue.

Ms. Burke thanked Mr. Habeger for raising the legal issue and putting it in the queue. Ms. Burke asked the Director who would Ms. Walsh and she speak with regarding getting the recovery fund financial statements in line with the statutory requirements?

Mr. Habeger said they would need to speak to Mary Manning with the Division of Administration. She is the one who maintains those books for the Division.

Election of Officers, Tab 9(d)

Chair

Mr. Cole nominated Anita Bates for Chair.

Ms. Burke nominated Nancy Davis for Chair.

Ms. Burke moved to close nominations.

Mr. Cole said that to be fair he would receive secret ballots from Commission members in election of the position of Chair.

Mr. Cole announced that the new Chair of the Real Estate Commission was Anita Bates.

Vice-Chair

Ms. Bates nominated Nancy Davis for Vice-Chair, seconded by Ms. Burke. All in favor. Nancy Davis is the Vice Chair.

Education Liaison

Ms. Davis nominated Stacy Risner for Education Liaison, seconded by Ms. Swires. All in favor.

Stacy Risner is the Education Liaison.

Mr. Cole said that he sincerely appreciates all the effort that everyone puts in because it is a lot of work. He also said that he had a wonderful time as Chairman and thanked the Commission members.

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Executive Administrator's Report, Tab 5

Recovery Fund Balance, Tab 5(a)

Ms. Walsh presented the Recovery Fund Balance report to the Commission. Ms. Walsh stated that Ms. Burke and she would like to see a few changes to the Recovery Fund report to show that the Surety Fund was finalized out and the Recovery Fund began on March 1, 2010. She said she believed that this was important to show on the financials because of the change.

The Commission members reviewed and discussed the report as presented.

Ms. Burke said that it is just not about what is recorded here but it impacts the amount the licensees are going to pay because the way it is being presented. She had concerns because the surety fund was not closed out and the recovery fund did not begin with a zero balance and it appears that funds were put into the recovery fund without statutory authority. She said she would like to help Sharon to get the numbers corrected so that the Commission can go forward with the correct numbers and the projections have support. It all has to do with starting off with the correct numbers.

The Chair said that the Commission should appoint someone to look into this so the Commission could take it up for discussion at a later time.

Mr. Habeger said that there could be an appropriation bill and that it would be Ms. Manning who could best research and answer that question.

Schedule of Revenue and Expenditure, Tab 5(b)

Ms. Walsh presented the 3rd quarter Schedule of Revenue and Expenditure report to the Commission. The Commission members reviewed and discussed the report as presented. Ms. Walsh said that she believed this report was provided to the Commission at the July 23, 2012 teleconference.

Ms. Burke had asked if the Commission's questions from FY 2010 and FY 2011 were answered from the July 23, 2012 teleconference.

Ms. Walsh said that Misty Frawley, the Division's Administrative Officer II, said via email that she was unable to track investigative costs by PCN (Position Control Number) which identifies each employee that works with the state and how much they are billing their time to the Real Estate Commission. Ms. Walsh said she believed that this was the question, it was regarding the time billed and not just how many investigations were opened.

Mr. Habeger said he does not have the information for FY 2010, however, he said that he has that type of information going forward beginning in FY2011 and FY 2012. They began to track the investigator's time through their timesheets. He said he is looking at a new program that will have a positive time keeping piece that is in it which is another step that will help ground truth and avoid some of the issues that the Commission and other Boards are concerned about. They are not there yet, but he has been thinking about it.

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Ms. Burke said whatever information he has would certainly help the Commission.

Recovery Fund Claims, Tab 5(c)

Ms. Walsh presented two recovery fund claims to the Commission that have been filed.

The Commission reviewed and discussed the two recovery fund claims for consideration.

A few of the Commission members had some concerns regarding the new process and paying out the claims. They asked for advisement and guidance on the process and pay out.

On a motion duly made by Ms. Bates, seconded by Ms. Davis, it was

RESOLVED to table the discussion and refer the matter to Mr. Branch, at the Department of Law, for evaluation and response at the December meeting, (for both claims).

All in favor; Motion passed.

Ms. Walsh updated the Commission on her request to attend the ARELLO annual conference in Halifax Nova Scotia. She said her travel request was denied because it was 70 % over budget.

Ms. Walsh also informed the Commission that Ms. Chambers, Operations Manager for Professional Licensing, asked that all Board/Commission members submit their original travel receipts within five days after a meeting.

James Studley

Ms. Walsh brought an issue to the Commission regarding a licensee who is running for public office. She stated that broker James Studley from Haines is running for public office and said he cannot complete the Alaska Public Offices Commission (APOC) disclosure form because of real estate law? She said he has applied for an exemption because he could not disclose his clients. He would like the Commission to weigh in on this issue.

The Commission discussed Mr. Studley's issue regarding APOC disclosure. The Commission recommended that Mr. Studley contact Representative Bob Lynn, also a real estate licensee, and speak with him regarding how he reports to APOC.

Mr. Cole said it is not a question that the Real Estate Commission can answer; however, they appreciate his concern.

On a motion duly made by Ms. Swires, seconded by Ms. Davis, it was

RESOLVED to enter executive session in accordance with AS 44.62.310(c) (2) to discuss personnel matters.

All in favor; Motion passed.

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Into Executive Session: 11:10 a.m.

On a motion duly made by Ms. Swires, seconded by Ms. Davis, it was

RESOLVED to come out of executive session.

All in favor; Motion passed.

Out of Executive Session: 11:53 a.m.

On a motion duly made by Ms. Davis, seconded by Ms. Swires, it was

RESOLVED that it has come to their attention that there is going to be staff changes. Currently our Project Assistant is billed 65% to REC and 35% through the Recovery Fund. That may change because of a new position that could take 65% of the Project Assistant out of the Real Estate Commission. We need to review personnel and budget numbers and come up with proposals for personnel needs and workload distribution. We will make that request through Sharon. We will need financial information on salaries so that we can evaluate the workload and the financial costs currently covered by the REC and Recovery Fund. We would like to have a teleconference prior to that but we would like our final recommendation from the Commission made at our December 2012 meeting.

All in favor; Motion passed.

By process of a friendly amendment, offered by Ms. Burke, accepted by the maker, Ms. Davis, to add that the Commission needs “fully loaded” financial information on salaries.

The Commission quickly reviewed the agenda to assess what they would cover in a teleconference at a later date.

The agenda items that will be discussed at the future teleconference were the approval of meeting minutes, education and the licensing report; tab #8(b) and #9 (b, c, e and f). The Chair asked that Ms. Walsh poll the Commission members first of next week to determine a good time to conduct a teleconference to cover the information that was not covered at this meeting.

Ms. Bates asked that another item regarding setting the dates for the March and September meetings be added to the agenda for the teleconference.

On a motion made by Ms. Davis, seconded by Ms. Swires, it was

RESOLVED to adjourn the meeting.

All in favor; Motion passed.

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Meeting adjourned at 11.57 a.m.

Prepared and submitted by Division Staff.

Approved:



Anita Bates, Chairperson
Real Estate Commission

Date: 12/5/2012