

MINUTES OF MEETING
OF
LOUISIANA REAL ESTATE COMMISSION

April 17, 2014

The Louisiana Real Estate Commission held its regular meeting on Thursday, April 17, 2014, at 10:00 a.m., at 9071 Interline Ave, Baton Rouge, Louisiana, according to regular call, of which all members of the Commission were duly notified, at which meeting the following members were present:

COMMISSION

Paul Burns, Chairman
James Gosslee, Vice Chairman
Lynda Nugent Smith, Secretary
Patrick Caffery, Jr.
Archie Carraway
Steven Hebert
Cynthia Stafford
Frank Trapani
Evelyn Wolford

STAFF

Bruce Unangst, Executive Director
Arlene Edwards, Legal Counsel
Ryan Shaw
Robert Maynor
Chad Mayo
Mark Gremillion
Debbie Defrates
Jenny Yu
Sara Wheeler
Marsha Stafford
Tad Bolton

GUESTS

Jean Carraway
Norman Morris – Louisiana REALTORS
Denise Hebert – Louisiana REALTORS
Dr. Roy Ponthier – ProEducate

Commissioner Smith led the Invocation; Commissioner Carraway led the Pledge of Allegiance.

MINUTES

Commissioner Trapani made motion, seconded by Commissioner Stafford, to approve the minutes of the meeting of March 27, 2014. Motion passed without opposition.

PERSONAL APPEARANCES

LRER Hearing Examiner Marsha Stafford alerted the Commission that Mr. Jeremy Frosch was on site and requesting to appear before the Commission to present new information regarding his request to sit for the real estate exam. Ms. Edwards explained the procedure for handling requests for agenda additions. Mr. Unangst refreshed the Commission members on how the felony applicant process is handled.

Commissioner Gosslee made motion, seconded by Commissioner Trapani, to move Mr. Frosch to the next regular business meeting where felony applicants are scheduled to appear. After a roll call vote, motion carried without opposition.

Please see copy of official court reporter transcript for the following personal appearances:

1. Terika Collins
2. Dianne Bindewald
3. Niron Johnson
4. Jason Montgomery
5. Billy Varner

COMMITTEE REPORTS:

1. Budget – Commissioner Stafford reviewed the budget report. She stated that operating revenues are down \$91,000 due to fewer fines levied for licensee violations. Travel costs, operating expenses, and professional services fees are all down. Personnel expenses are slightly up due to retirements and insurance costs. A surplus in revenue from licensees is expected because the overall count is up.

(See Attachment A)

2. Education/Research/Publication – No Report.
3. Legal/Legislative/Timeshare – Commissioner Gosslee reported that the Committee met prior to the business meeting. The Committee discussed team regulations and advertising and approved language at that meeting.

Mr. Unangst stated that the Committee chose to accept the second A under 1901 and deleting 1903A from the team rules language. The Committee decided to defer discussion on the overall issue of advertising language. A resolution was passed to accept the language with those changes.

Commissioner Nugent Smith made motion, seconded by Commissioner Stafford, to formally approve the language, subject to the changes made by the Committee.

Commissioner Hebert stated that the Committee had not decided to delete all of 1903A, but to amend it regarding responsible parties. Mr. Unangst stated that Mr. Hebert was correct and that staff would clarify the language.

Commissioner Carraway stated that he is concerned with non-licensed individuals being listed in advertising for teams. Commissioner Trapani stated that the language of the rule should be able to state that all team members advertised must be licensed individuals to avoid this issue. Commissioner Nugent Smith amended her prior motion, amendment seconded by Commissioner Stafford, to reflect that this language should be included in the final rule.

Commissioner Hebert stated that the issue should be tabled so that Commissioners could gauge concerns of licensees in their regional areas before voting on final language. Commissioner Gosslee requests that updated language be email to the commissioners prior to the next regular business meeting for review.

Commissioner Hebert made motion, seconded by Commissioner Trapani, to table Commissioner Nugent Smith's motion until the next regular business meeting. Motion passed without opposition.

(See Attachment B)

Commissioner Gosslee stated that the Committee also discussed House Bill 869. Commissioner Caffery stated that he is concerned about the use of the word "shall" in the first paragraph because it ties the hands of future commissions and requests that the word "may" replace the word "shall." Commissioner Gosslee agrees with using "may" instead of "shall."

Commissioner Stafford feels that the word "may" makes the bill ineffective because the Commission will have the ability to change the testing requirements at any time, which makes licensees fearful of losing their licenses. Commissioner Caffery stated that they primary responsibility of the Commission is to protect the public by making sure that agents are

competent. The use of the word “may” allows for future commissions to carry out actions that they see fit.

Commissioner Trapani asked if this bill will affect ARELLO requirements. Dr. Ponthier stated that there must be a final examination for ARELLO. Dr. Ponthier asked what he is supposed to do with a licensee who waits until the very last minute to complete their post licensing course. Ms. Edwards stated that, based on current rules that are in place, credit cannot be given if the test is not passed. Mr. Unangst read rule 5527B aloud.

Commissioner Hebert stated that he does not see a need for HB 869 and he wants Louisiana REALTORS to withdraw the bill. He does not believe that the Commission could easily revoke licenses, which nullifies the need for the bill. Commissioner Trapani agrees with Commissioner Hebert because there is a process in place giving everyone ample time before a rule change is promulgated. Mr. Unangst reviewed the Administrative Procedures Act that the Commission is required to adhere to. Commissioner Caffery agrees with Commissioner Hebert that the bill is unnecessary because the current system is working and no one is losing their license.

LREC Director of Education and Licensing Mark Gremillion stated that the current proposed bill will remove requirements for testing. ARELLO requires testing for any online course, so what kind of conflict will that create when LREC requires that an online course must be ARELLO certified. Commissioner Wolford stated that the bill language states that the second paragraph says that a test may be required.

Commissioner Gosslee asked Ms. Edwards if the use of “shall” is necessary from a legal standpoint to abide by ARELLO rules. Ms. Edwards stated that taking out “shall” creates a potential conflict with ARELLO requirements. The current rule in place says “shall” because of the ARELLO testing requirements. The new house bill creates an issue with ARELLO.

Commissioner Caffery, seconded by Commissioner Hebert, replacing “shall” with “may or may not” and adding “at the discretion of the LREC” at the end of the first paragraph. After roll call vote, motion failed (5-3 no).

Commissioner Hebert asked what the bill would do for the future of LREC. Mr. Unangst cautioned the Commissioners that amendments can always be added and the bill can change drastically once it is in the legislature. Ms. Edwards cautioned that just because the Commission votes on a language change, there is no guarantee that Louisiana REALTORS will incorporate the suggested changes.

Commissioner Gosslee made motion, seconded by Commissioner Wolford, to accept the Committee’s recommendation with amendments to the language. After roll call vote, motion carried (5-3 yes).

(See Attachment C)

Commissioner Gosslee stated that the Committee recommended tabling the discussion of Chapter 17-B: Home Services Contract providers in hopes that it will be moved to the Attorney General’s Office.

Commissioner Gosslee made motion, seconded by Commissioner Stafford, to table discussion of Ch. 17-B. Motion passed without opposition.

4. Standardized Forms – Commissioner Wolford stated that a meeting will be held in June to move forward.
5. Strategic Planning – Commissioner Nugent Smith stated that the committee is waiting on appointments to move forward.
6. Errors & Omissions – No report.

DIRECTORS REPORT:

Mr. Unangst stated that Pearson-View, a testing vendor and competitor of PSI, has requested to make an appearance at a future Commission meeting. The Commission has an option of extending the current contract with PSI or putting out a Request for Proposal for another vendor.

Mr. Unangst stated that the mandatory retirement contribution has increased to 38.7% of payroll. The increase is not an imminent threat of putting the agency in the red. Mr. Unangst will meet with Commissioner Stafford prior to the next business meeting to put together information on the budget. Me. Unangst stated that the increase will not result in an increase in fees for licensees.

PUBLIC COMMENT:

None

UNFINISHED BUSINESS:

Addressed in Legal/Legislative/Timeshare report.

NEW BUSINESS:

Commissioner Trapani made motion, seconded by Commissioner Stafford, to approve the stipulation and consent orders as presented to the Commission. Motion carried without opposition.
(See Attachment D)

There being no further business, Commissioner Stafford made motion, seconded by Commissioner Nugent Smith, to adjourn. Motion passed without opposition.

PAUL BURNS, CHAIRMAN

LYNDA NUGENT SMITH, SECRETARY