

**MINUTES OF MEETING**  
**OF**  
**LOUISIANA REAL ESTATE COMMISSION**

**December 15, 2016**

The Louisiana Real Estate Commission held its regular meeting on Thursday, December 15, 2016, at 9:00 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:

**COMMITTEE**

Evelyn Wolford, Vice Chair  
Steven Hebert, Secretary  
Lacy Baaheth – arrived at 9:06 a.m.  
Jeffrey Donnes  
Kelly Ducote  
Eloise Gauthier  
James Gosslee  
Deanna Norman  
Richman Reinauer  
Patrick Roberts, Jr.

**STAFF**

Bruce Unangst, Executive Director  
Arlene C. Edwards, Legal Counsel  
Summer Mire  
Ryan Shaw  
Mark Gremillion  
Robert Maynor  
Chad Mayo  
Henk vanDuyvendijk  
Debbie DeFrates  
Dusty Evans  
Jenny Yu  
Jeremy Endicott

**GUESTS**

Norman Morris – Louisiana REALTORS®  
Patty McMurray – Baker Donelson  
Roy Ponthier – ProEducate  
Chris Donaldson – Donaldson Educational Services  
Lisa Baker – Burk Baker School of Real Estate and Appraising  
Amy Fennell – Louisiana REALTORS®

Michael Wong – Louisiana REALTORS®  
Frank Trapani – Louisiana REALTORS®  
Pat Caffery – Former Commissioner  
Cynthia Stafford – Former Commissioner

Chairman Nugent Smith was unable to attend the meeting.

Commissioner Gosslee led the Invocation; Commissioner Wolford led the Pledge of Allegiance.

### **MINUTES**

Commissioner Wolford requested that the error on page four be corrected to reflect “Mr. Morris” instead of “Mr. Norman.”

Commissioner Wolford made motion, seconded by Commissioner Ducote, to approve the amended minutes of the meeting of November 17, 2016. Motion passed without opposition.

(Attachment A)

### **COMMITTEE REPORTS:**

1. Budget – Commissioner Reinauer reviewed the budget report with the Commissioners. He brought the Commissioners attention to the fact that the budget reflects nearly 1,000 more renewals at this time than there were at this time last year. He stated that the budget is finishing in a good place this year.

(Attachment B)

2. Education/Research/Publication – Commissioner Ducote stated that the Commissioners received a report regarding the combination of pre and post licensing courses. Mr. Unangst stated that this issue has been discussed by a committee in the past. He stated that the consensus of that committee was that most potential licensees only concern themselves with passing the test. He stated that the committee recommended against the combination of pre and post because of the way that potential licensees focus only on test material and not practical material. Mr. Unangst stated that a review of actual course time was also conducted and it was found that the mean time spent in the 90 hour course was 63 hours. Mr. Unangst reviewed a list of common violations committed by licensees, which he stated are areas of content that can be focused on in a post licensing course. He stated that he held a meeting with education vendors and the idea of high-quality videos of scenarios that are common violations was suggested. He asked if there were other areas that the Commissioners thought needed to be a focus in courses. Commissioner Wolford stated that the issue of contracts needed to be a focus.

Mr. Unangst stated that the education vendors also were open to using Commission-generated content in their courses. Mr. Unangst recommended that the Commission authorize staff to send out a request for proposal to production companies to get prices for videos on the proposed subjects. Commissioner Norman stated that she believed that the videos were a great idea.

Commissioner Gosslee made motion, seconded by Commissioner Norman to have staff send out a request for proposal to video production companies to receive pricing on instructional videos. Commissioner Wolford stated that she was in favor of the motion, but that she wanted to caution the other Commissioners because there have been issues in the past with providing content to vendors as they viewed it as an infringement on their ability to create their own courses as they see fit. Mr. Ponthier stated that he would gladly accept any free content from the Commission. Mr. Donaldson stated that his school is already producing and using high-quality video and that he views this as a leveling of the playing field. Mr. Ponthier stated that many of the other states that he offers courses in are much stricter regarding content than Louisiana is. He stated that he thinks that the videos are a good first step toward creating consistency across schools in the state.

Commissioner Norman stated that if the test is changing to include more questions about the contract then there needs to be more of a focus on the contract in the pre licensing education course. She asked how vendors know what is on the test to know what to teach to prepare potential licensees for the test. Mr. Unangst stated that testing company puts out information on how many questions on each topic will be on the test. He stated that there is a large bank of questions from which the questions are drawn. He stated that there are periodic item reviews of questions to keep the tests current.

Mr. Unangst stated that there has also been an effort to update post licensing course content in recent years. He stated that a college professor was tasked with going through the content and proposing updates. He stated that the idea of practical applied training, supervised by the broker, has been suggested as a way to further educate new licensees while giving them the hours required to fulfill their post-licensing requirement. Commissioner Norman asked if this model could be trusted since the broker is the only person who has to attest to the completion of the hours of practical training. Mr. Unangst stated that further down on the agenda, the Commission will be reviewing suggested rule language for broker responsibility, which would make the penalties for not completing the training much steeper.

Commissioner Norman asked how much push back there has been from the live only requirement for the 2017 broker mandatory course. Mr. Unangst stated that the Commission has received two letters from national institutions in opposition to the requirement, but that most brokers seem to be pleased with the idea.

Commissioner Wolford stated that she likes the idea of applied training, but that she wants to caution the Commission on how to implement this new idea. Mr. Unangst stated that the staff is just presenting concepts today and would not recommend voting on anything until more discussion has taken place. Commissioner Norman stated that she does not see how the completion of practical training can be verified and how the Commission can prove non compliance. Mr. Morris stated that Louisiana Realtors applauds the Commission's efforts to improve education. He stated that there are many courses that provide practical experience that could be counted toward the licensees post license requirement. Commissioner Wolford stated that she agreed that there are plenty of interactive, hands on courses that could be approved and counted toward post licensing.

After the discussion, the motion passed with no opposition.

Commissioner Ducote stated that Mr. Morris had an item on the agenda to discuss. Mr. Morris stated that there are two courses (1031 and ADA) that Louisiana REALTORS would like to combine into one four hour course as an alternative commercial mandatory course. The courses are a 1031 Exchanges course for 2 hours and a Commercial Americans Disability Act course for 2 hours. The courses would be combined and given a new name. Commissioner Gosslee stated that as a member of the CCIM, he feels this would be a good alternative commercial mandatory course.

Commissioner Gosslee made motion, seconded by Commissioner Ducote, to approve Mr. Morris' request to accept these courses combined as a 4-hour alternative mandatory commercial course. Any licensee would be allowed to attend. Motion passed without opposition.

Commissioner Ducote stated that the Commission received appeal letters from two online vendors, The CE Shop and AYPO, LLC, to request an appeal of the requirement to have the mandatory broker course be taught only in a live setting. A copy of the appeal letters were emailed to commissioners.

Commissioner Hebert made motion, seconded by Commissioner Reinauer, to deny the appeal. Motion passed without opposition.

3. Legal/Legislative/Timeshare – Commissioner Wolford stated that the results of the advertising survey sent to Commissioners were surprising to her because of the variance in responses. Mr. Unangst stated that staff took the results of the advertising survey and incorporated them into the advertising guidelines and checklist. Mr. Unangst stated that the good thing about the guidelines and checklist is that they can be changed as the industry changes without making a law or rule change. He also stated that the guidelines give the investigative staff more basis for fining violating licensees. Commissioner Wolford stated that there had been previous discussion of holding hearings for these violators so that Commissioners could take the burden off of staff. Mr. Maynor stated that the hearings would have to be formal hearings before the Commission because informal hearings are only held when the licensee admits guilt.

Commissioner Roberts stated that the survey results show that the Commission is mostly on the same page, which he believes would lead to agreements in formal hearings.

Mr. Trapani asked if the guidelines would be part of the mandatory broker course and if there would be an increase in fees. Commissioner Ducote made motion, seconded by Commissioner Gauthier, to approve inclusion of the Advertising Guidelines and Checklist in the 2017 broker mandatory course.

Commissioner Norman asked if materials shared agent to agent had to comply with the advertising rules. Commissioner Wolford stated that if agents wanted to share information they can do so in emails, but if they want to produce materials they must comply.

Commissioner Hebert asked if Louisiana REALTORS had any input on the guidelines. Mr. Morris stated that LR has been involved throughout the process of creating the guidelines and plans to continue to work with the Commission on implementing these guidelines. Mr. Morris stated that the rules state that the broker is responsible for all advertisements that come from their office. Mr. Unangst stated that he is correct, but that there are currently no penalties for approving an ad that is in violation. He stated that the Commission will need to make decisions in the future on procedural issues such as leniency on brokers whose agents act without their knowledge.

After discussion, motion passed without opposition.

Mr. Unangst brought the Commissioners' attention to the handout in their packet with a rundown of other states fees for advertising violations. Other states fines range from \$250 to \$1000 for a first offense. He stated that it has become evident that the current \$75 fee is not making the desired impact to promote compliance. Commissioner Ducote asked if the first offense and second offense are based on licensees or brokers. She stated that if the Commission is moving toward broker responsibility as a standard, it might need to be based on offenses by the broker. Mr. Maynor stated that it was currently based on the agent, but that the Commission can decide to change that. Commissioner Hebert asked how it works with a sign that is posted in multiple locations. Mr. Maynor stated the agent is given 30 days after the first citation to correct all signs. If the sign is seen after the 30-day period it is a second offense.

Commissioner Reinauer made a motion, seconded by Commissioner Roberts, that the Commission adopt Alaska's fee structure for advertising violations - \$250 for first offense, \$500 for second offense, \$1000 for third offense.

Commissioner Reinauer stated that he believes that brokers should be charged with the first time offense amount every time one of their agents is in violation. Commissioner Ducote stated that she agreed and thinks that the fee schedule of the broker should follow that of the agent; i.e. if an agent is a second-time offender, the broker will also be charged as a second-time offender.

Commissioner Hebert stated that he believes that the current 30-day removal period is a good structure and should remain in place.

Ms. Edwards stated that there needs to be a time period for education prior to enforcement. Commissioner Wolford requested that Commissioner Reinauer amend his motion to add an effective date. Mr. Unangst stated that he believed that June 1, 2017 would be the best target date based on the rule promulgation process and sufficient education on the changes. Mr. Morris stated that LR would agree on the June date.

Commissioner Ducote stated that she finds it hard to believe that it is taking close to a year to implement the changes that the Commission began to discuss last May. Commissioner Reinauer stated that there should be a quicker implementation of the new fees.

Commissioner Donnes thanked staff for the work that they did to get to this point. He stated the process is a slow one and he believes that the June date is a good one.

After discussion, the motion passed without opposition.

Commissioner Gauthier made a motion, seconded by Commissioner Baaheth, that the new fines be instituted beginning June 1, 2017. After discussion, motion carried 6-3 with Commissioners Reinauer, Hebert, and Ducote voting in opposition.

Commissioner Norman asked if the new guidelines for advertising will be posted clearly on the LREC website. Ms. Shaw stated that they would be added to the website and that on the soon-to-come new website they will be clearly listed for ease of access. Ms. Shaw will also include the updated fine schedule in an upcoming issue of the Boundary Lines.

Mr. Unangst brought the Commissioners' attention to the proposed rule language for broker responsibility in their packets. He stated that, if this language is instituted, the investigative staff will have one area of the rules to reference for broker responsibility, which will solve problems that arise in investigations.

Commissioner Roberts made motion, seconded by Commissioner Gauthier, to approve the proposed broker responsibility rule language. Motion passed without opposition.

(Attachment D)

Mr. Unangst cautioned the Commission on how they regulate advertising because the Federal Trade Commission has provided staff guidelines on regulating market participants on a commission. Ms. Edwards stated that there is no immunity for anti-trust. If a commission takes action on a licensee regarding advertising that looks like competition, there is no immunity. Mr. Unangst stated that he is looking into additional insurance coverage for commissioners regarding this. The Attorney General is also going to be looking into this issue at their upcoming legislative session to determine how to best add additional oversight to Boards and Commissions. This may fall under the Office of Risk Management or they may assign an Assistant Attorney General to each Board or Commission. The Federal Trade Commission does not feel that Boards and Commissions have enough active oversight.

4. Standardized Forms – Commissioner Wolford brought up the issue of the collection of deposit checks. She stated that the next time forms review comes up, the Commission should consider adding language to the deposit section of the contract to clarify that the Commission has no say in what happens to a deposit when there is a contract dispute. Mr. Unangst stated that Mr. Caffery brought this issue up when he was a Commissioner and asked him to speak on the issue. Mr. Caffery stated that is a very big issue statewide. He stated that his suggestion would be that the Commission make a rule that an abandoned deposit should be sent to the Secretary of Treasury. He stated that this would be only for abandoned checks, not those that are involved in a dispute. Ms. Edwards stated that this could be done via rule change.

Commissioner Gosslee made motion, seconded by Commissioner Donnes, to have Ms. Edwards draft language for the discussed rule change. Motion passed without opposition.

5. Strategic Planning – Commissioner Gosslee reviewed the progress made on items of the 2015-2019 strategic plan. He reviewed the goals that were completed in 2016. See attachment.

6. Errors & Omissions – No report.
7. Technology – Commissioner Donnes asked that Mr. Endicott review the end-of-year technology report. Mr. Endicott stated that the completion of the new licensing software is near and that the implementation will begin following the renewal period. Mr. Endicott reviewed the updates of hardware and software that took place in 2016. He also discussed the steps that were taken to back up the servers in the office. He updated the Commissioners on the progress of the new website project.

**DIRECTORS REPORT:**

Mr. Unangst stated that the new licensing software is nearing completion and that it has been a very large project to make it all function properly. He also stated that upon completion of the website, the Commission will be developing a mobile app in a continued effort to move toward a paperless process for licensees.

**PUBLIC COMMENT:**

None

**UNFINISHED BUSINESS:**

None

**NEW BUSINESS:**

Commissioner Reinauer made motion, seconded by Commissioner Ducote, to approve Stipulation & Consent Orders: Continuing Education Audit Cases (2<sup>nd</sup> Time CE Offenders). Motion passed without opposition.

(Attachment F)

Commissioner Wolford asked Mr. Unangst to review the 2017 Committee Appointments. He stated the Commission needs to elect officers for 2017 first. He stated that the past protocol has been to move officers up each year.

Commissioner Roberts made motion, seconded by Commissioner Gauthier, to elect Commissioner Wolford as 2017 Chair. Motion passed without opposition.

Commissioner Reinauer made motion, seconded by Commissioner Gauthier, to elect Commissioner Hebert as 2017 Vice Chair. Motion passed without opposition.

Commissioner Ducote made motion, seconded by Commissioner Gauthier, to elect Commissioner Reinauer as 2017 Secretary. Motion passed without opposition.

Commisisoner Wolford stated the following Committee assignments:

Budget: Commissioner Reinauer  
Education/Research/Publication: Commissioners Gauthier and Norman  
Legislative/Legal/Timeshare: Commissioner Nugent Smith  
Standardized Forms: Commissioner Roberts  
Strategic Planning: Commissioners Ducote and Baaheth  
Errors and Omissions: Commissioner Norman  
Technology: Commissioners Donnes and Hebert

Commissioner Gosslee made motion, seconded by Commissioner Donnes, to approve the 2017 Committee appointments. Motion passed with no opposition.

Commissioner Reinauer made motion, seconded by Commissioner Gauthier, to approve the 2017 meeting schedule. Motion passed with no opposition.

(Attachment G)

**EXECUTIVE SESSION**

None

There being no further business, Commissioner Roberts made motion, seconded by Commissioner Gosslee, to adjourn. Motion passed without opposition.

---

LYNDA NUGENT SMITH, CHAIRMAN

---

STEVEN HEBERT, SECRETARY