

**New Mexico Real Estate Commission
Meeting of January 24, 2011
Real Estate Commission Offices
5200 Oakland Avenue NE
Albuquerque, New Mexico**

MINUTES

- Commissioners Present:** Peter Parnegg, President
Christina Eberly, Vice President
Robert Dunn, Member
- Commissioner Excused:** Gayla Brumfield, Secretary
- Staff Present:** Wayne W. Ciddio, Executive Secretary
Walter Mullen, Chief Investigator
William “Greg” Valdez, Investigator
Jacque Moise, Investigator
Claire Conrad, Education Administrator
Melinda Archuleta, Administrative Secretary
- Others Present:** Elaine Lujan, Assistant Attorney General
And Commission Counsel

**1. Call to Order, Welcome, and Introductions – Peter Parnegg,
President**

Commission President Peter Parnegg called the meeting to order at approximately 10 a.m., welcomed those in attendance, and asked Commissioners and Commission staff to introduce themselves.

2. Approval of the Agenda for the Regular Meeting of January 24, 2011

Commissioner Robert Dunn moved that the agenda for the regular meeting of January 14, 2011 be approved. Commissioner Eberly seconded the motion and it carried unanimously.

3. Approval of the Minutes of the December 15, 2010 Special Meeting and the November 22, 2011 Regular Meeting

Commissioner Eberly moved that the minutes of the December 15, 2010 Special Meeting and the November 22, 2010 Regular Meeting be approved. Commissioner Dunn seconded the motion and it carried unanimously.

4. Election of 2011 Officers

Commissioner Dunn nominated Commissioner Christina Eberly as President of the Commission for 2011, and moved that nominations cease and that Commissioner Eberly be elected President by acclamation. Commissioner Parnegg seconded the motion and it carried unanimously.

Commissioner Dunn nominated Commissioner Gayla Brumfield as Vice President of the Commission for 2011, and moved that nominations cease and that Commissioner Brumfield be elected Vice President by acclamation. Commissioner Parnegg seconded the motion and it carried unanimously.

Commissioner Eberly nominated Commissioner Dunn as Secretary of the Commission for 2011, and moved that nominations cease and that Commissioner Dunn be elected Secretary by acclamation. Commissioner Parnegg seconded the motion and it carried unanimously.

5. Broker and Public Forum

Instructor Donna Felker asked the Commission about the language in Section 61-29-2 C (1) of the Real Estate License Law that exempts owners or lessors of real property from licensure unless the property reaches the threshold of a subdivision containing one hundred (100) or more parcels. Mr. Ciddio explained that Senate Bill 105 introduced by Senator Tim Eichenberg on behalf of the Commission would remove the “lessor” language from the law.

6. Adoption of 2011 Open Meetings Resolution

Commissioner Dunn moved approval of the Commission's 2011 Open Meetings Resolution. Commissioner Parnegg seconded the motion and it carried unanimously.

7. Rule Hearing on Amending Part 16.61.2.8 A, Fees, License and Other Fees, of the Real Estate Commission Rules

Mr. Ciddio reported that the rule hearing on this matter had been postponed due to an Executive Order issued by Governor Susana Martinez suspending all agency rule making pending a review by the Governor's staff of the impact of rules on business. Mr. Ciddio further reported that he had written a letter to the Governor's staff requesting an exemption from the Executive Order, but had not received a reply by the time of the Commission meeting.

(Subsequent to the meeting, the Governor's Office granted the Commission's request for exemption, but the rule making became unnecessary when the one and only proposal the Commission received in response to its Request for Proposals (RFP) for examination services came in within the \$95 cap on examination fees.)

8. Review of Senate Bill 105 Sponsored by Senator Tim Eichenberg

Mr. Ciddio reviewed the major provisions of Senate Bill 105, which are:

- Repeal of the existing exemption from continuing education for brokers who are 65 years of age with 20 years of continuous licensure. Brokers who are already exempt on the July 1, 2011 effective date of the new law would remain exempt.
- The implementation of fingerprinting as a requirement of licensure as a real estate broker.
- An increase in the criminal penalty for unlicensed activity from a misdemeanor to a fourth-degree felony.

9. Status Report on Request for Proposals (RFP) for Examination Services

Mr. Ciddio reported that three vendors, PSI Examination Services, the incumbent vendor, Applied Measurement Professionals (AMP), and Pearson Vue, have submitted written statements of intent to submit proposals by the February 11, 2011 deadline.

10. Report on the Progress of the Rules Task Force

Mr. Ciddio reported that the Rules Task Force has scheduled meetings open to brokers on February 18, March 18, April 15, May 20, and June 17. Meetings of the task force are held at the offices of the Greater Albuquerque Association of Realtors (GAAR) and begin at 10 a.m.

11. Real Estate Commission Budget Status Report

Mr. Ciddio reported that through December 2010, the halfway point of the fiscal year, the Commission had exceeded its revenue projections by \$55, 225, collecting \$612, 003, or 61 percent of the total \$1, 088, 297 in revenues projected for the fiscal year.

On the expenditure side, the Commission had expended about 45 percent of its adjusted budget at the halfway point of the fiscal year.

12. Appointment of Education Steering Committee (ESC) Chair, Report of the ESC, and Adoption of ESC Minutes

Commissioner Dunn nominated Bill Hallett to chair the ESC for 2011. Commissioner Parnegg seconded the motion and it carried unanimously.

Mr. Hallett encouraged the Commission to find a way within budget constraints to continue to pay per diem and mileage for out-of-town ESC members to enable those members to attend ESC meetings.

In response to a question about what if any testing would be conducted in connection with the Mandatory Course in view of the Commission's decision to eliminate the Mandatory Course examination, Education Administrator Claire Conrad said module quizzes to be given in class have been incorporated into the Mandatory Course.

After discussion, Commissioner Parnegg moved that the minutes of the ESC meetings of November 17, 2010 and December 15, 2010, be approved. Commissioner Dunn seconded the motion and it carried unanimously.

13. Chief Investigator's Report, Default Order, Settlement Agreement, Reports of Investigation, and Case Closures.

Chief Investigator Walter Mullen reported that investigators have reduced the Commission case backlog from 247 cases in 2009 and 2010 to 75 open cases at present.

After discussion, Commissioner Parnegg moved that pursuant to the exceptions to open meetings in Section 10-15-1 H (1), the Commission go into Executive Session to consider matters pertaining to the issuance, suspension, renewal or revocation of a license in the New Mexico Real Estate Commission cases listed under Agenda Item 13, items "a" through "qq". Commissioner Dunn seconded the motion. Mr. Ciddio called the roll and Commissioners Eberly, Parnegg, and Dunn voted "Yes" on the motion and no Commissioners voted "No".

a. Default Order, NMREC Case No. 09-03-01-022

Commissioner Dunn moved that the Commission revoke the license of the respondent in the above-referenced case for failure to request a hearing within the time frame specified in the Uniform Licensing Act. Commissioner Parnegg seconded the motion and it carried unanimously.

b. Settlement Agreement, NMREC Case No. 09-07-03-061

Commissioner Dunn moved that the Commission accept the Settlement Agreement in the above-referenced case. Commissioner Parnegg seconded the motion and it carried unanimously.

c. NMREC Case No, 08-11-07-118, Broker B

Commissioner Dunn moved that the Commission issue a broker's license to the respondent in the above-referenced case. Commissioner Parnegg seconded the motion and it carried unanimously.

d. NMREC Case No. 09-10-02-092, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand and a \$500 fine in lieu of the issuance of a Notice of Contemplated Action (NCA) with the understanding that if the offer is not accepted within 30 days, the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

e. NMREC Case No. 10-02-06-016, Broker B

Commissioner Dunn moved that the Commission table the above-referenced matter until the next Commission meeting. Commissioner Parnegg seconded the motion and it carried unanimously.

f. NMREC Case No. 10-03-04-021, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

g. NMREC Case No. 10-04-08-032, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

h. NMREC Case No. 10-06-13-057, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

i. NMREC Case No. 10-07-01-062

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

j. NMREC Case No. 10-08-05-082, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

k. NMREC Case No. 10-08-08-085, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

l. NMREC Case No. 10-08-11-088, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

m. NMREC Case No. 10-08-12-089, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

n. NMREC Case No. 10-09-06-100, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

o. NMREC Case No. 10-10-05-105, Broker B

Commissioner Dunn moved that the Commission dismiss the above-referenced case. Commissioner Parnegg seconded the motion and it carried unanimously.

p. NMREC Case No. 10-11-06-115, Broker B

Commissioner Dunn moved that the Commission issue an NCA in the above-referenced matter. Commissioner Parnegg seconded the motion and it carried unanimously.

q. NMREC Case No. 10-12-03-125, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

r. NMREC Case No. 10-12-04-126, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

s. NMREC Case No. 10-12-05-127, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

t. NMREC Case No. 11-01-03-003, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

u. NMREC Case No. 11-01-05-005, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA

with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

v. NMREC Case No. 11-01-06-006, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

w. NMREC Case No. 11-01-09-009, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

x. NMREC Case No. 11-01-08-008, Broker B

Commissioner Dunn moved that the Commission offer the respondent in the above-referenced case a letter of reprimand, a \$200 fine, and the 4-hour Rules of the Real Estate Commission course for no credit in lieu of the issuance of a formal NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Parnegg seconded the motion and it carried unanimously.

y through qq- NMREC Case Nos. 09-09-06-083; 09-09-07-084; 09-12-08-119; 10-01-06-006; 10-02-06-016; 10-04-06-030; 10-07-13-074; 10-07-14-075; 10-08-02-079; 10-08-07-084; 10-08-17-094; 10-09-01-095; 10-10-01-101; 10-10-06-106; 10-11-02-111; 10-11-07-116; 10-11-11-120; 10-11-12-121.

Commissioner Dunn moved that the above-referenced cases be dismissed. Commissioner Parnegg seconded the motion and it carried unanimously.

14. Other Business

The Commission scheduled its 2011 regular meetings for March 21 (later rescheduled for March 28), May 9, July 18, September 20, and November 21. All meetings will convene at 10 a.m. at the Commission offices at 5200 Oakland Avenue NE in Albuquerque, New Mexico.

15. Adjournment

There being no further business, the meeting was adjourned at approximately 1:30 p.m.

Robert Dunn, Secretary
New Mexico Real Estate Commission